

Floyd County Zoning Ordinance

FCO-2006-06

Amendments to Floyd County Zoning Ordinance

- 1. November 8, 2006**
- 2. February 6, 2007**
- 3. January 2, 2008**
- 4. March 18, 2008.**
- 5. November 18, 2008**

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Section 1.01 Title

This Ordinance shall be formally known as the "Floyd County Zoning Ordinance" and it may be cited and referred to herein as the "Zoning Ordinance" or "Ordinance".

Section 1.02 Purpose

This Ordinance is a tool for Floyd County to guide and manage growth and development in accordance with vision of the Floyd County Comprehensive Plan. The primary purposes of this ordinance are the following:

- A. To secure adequate light, air, convenience of access;
- B. To provide safety from fire, flood and other danger;
- C. To lessen or avoid congestion on public ways;
- D. To promote the public health, safety, comfort, morals, convenience, and general welfare;
- E. To promote community growth and development in areas with adequate public facilities such as public ways, utilities, and recreational facilities;
- F. To recognize the unique natural characteristics and resources of the community and strive to promote good stewardship of these resources
- G. To promote the efficient and effective use of public funds in relationship to community growth and development

Section 1.03 Authority

This Ordinance is adopted by the Board of Commissioners of the County of Floyd pursuant to its authority under the laws of the State of Indiana

Section 1.04 Compliance

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; no structure or land shall be used; and no existing use shall be expanded except in compliance and conformity with all provisions of this Ordinance and any and all permits and certifications issued by proper authority hereunder.

Section 1.05 Severability

If any article, chapter, clause, provision, portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other article, chapter, clause, provision or portion of this Ordinance.

Section 1.06 Interpretation

The provisions of this Ordinance are deemed to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare. If two or more provisions within this Ordinance are in conflict or are inconsistent with one another, or with a term or provision of any other ordinance, rule, or regulation, then the provision which is most restrictive shall control.

Section 1.07 Jurisdiction

This Ordinance shall apply to all land within the Floyd County, Indiana except that which lies within the planning jurisdiction of the City of New Albany, the incorporated towns of Georgetown and Greenville or which is owned by the State of Indiana or United States.

Section 1.08 Application

When land or structures which are within the jurisdiction of this Ordinance are also subject to private covenants, private contracts, commitments, permits, agreements, and/or laws, rules, and regulations of the State of Indiana, the United States, or any other governmental entity or agency, the applicable provision imposing the greater restriction shall control and apply. In no instance, however, shall any term or provision of this Ordinance be interpreted as altering or negating any other applicable regulation.

Section 1.09 Repealer

All ordinances or parts thereof that are in conflict with the terms and conditions of this ordinance are hereby repealed.

Section 1.10 Amendments

All amendments, repeals, and/or changes to this Ordinance shall be in compliance with the laws of the State of Indiana. All review of text and zoning map amendments, the Floyd County Plan Commission and the Floyd County Commissioners shall pay reasonable regard to the following:

- A. The most recently adopted Comprehensive Plan.
- B. Current conditions and the character of structure, and uses in each district.
- C. The most desirable use for which the land in each district is adapted.
- D. The conservation of property values throughout the jurisdiction.
- E. Responsible development and growth

Section 1.11 Types of Petitions/Permits

The Floyd County Plan Commission hereby requires that an application be submitted for the following petitions and permits.

- A. Administrative Appeal
- B. Certificate of Occupancy
- C. Conditional Use
- D. Development Plan Review
- E. Improvement Location Permit
- F. Planned Unit Development (Conceptual Sketch Plan)
- G. Planned Unit Development (Detailed Development Plan)
- H. Sign Permit
- I. Special Exception (Use Variance)
- J. Temporary Use Permit
- K. Variances of Development Standards
- L. Zoning Map Change (Re-Zoning)

Section 1.12 Effective Date

This Ordinance shall take effect upon its passage by approval of the Board of Commissioners of Floyd County and publication as required by law.

Section 2.01 Definitions

The definitions contained in this Article shall be observed and applied in the interpretation of all Articles in this Ordinance, except where the context clearly indicates otherwise. Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular; words used in the masculine genre shall include the feminine.

AR means the zoning district Agricultural-Residential.

ACCESSORY BUILDING AND USE means (a) A building or use subordinate to another structure or use located on the same lot and which does not change or alter the character of the premises and which is not used for human occupancy. (b) Public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment.

ACCIDENTAL DISCHARGE means a discharge or release prohibited by this ordinance which occurs by chance and without planning or thought prior to occurrence.

ADJACENT PROPERTY OWNERS means the owners of property contiguous to the subject property, excluding those who are also the owners of the subject property, ignoring all intervening streams, street and railroad rights-of-way.

ADULT ARCADE means any place to which the public is permitted or invited where one (1) or more "video booths" and/or "live viewing booths" are available to patrons where the images shown and/or live entertainment presented are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".

ADULT CABARET means a nightclub, bar, restaurant, or similar commercial establishment that as a substantial or significant portion of its business regularly features: (1) persons who appear in areas of the establishment open to patrons in a "state of nudity" or "state of semi-nudity" so as to expose to view "specified anatomical areas"; or (2) any live entertainment, exhibition, performance, or dance by persons whose entertainment, exhibition, performance, or dance is characterized by an emphasis on the depiction or description of "specified anatomical areas" or "specified sexual activities";

ADULT MEDIA means magazines, books, photographic reproductions, videotapes, movies, slides, compact discs in any format (e.g., cd-rom, cd-r, cd-rw), digital video discs in any format (e.g., dvd), other devices used to reproduce or record computer images, or other print, video, film, electronic, computer-based, analog, or digital media characterized by an emphasis on matter depicting, describing or related to "specified sexual activities" or "specified anatomical areas."

ADULT MEDIA STORE means an establishment that rents and/or sells adult media and that meets any of the following tests: (1) more than 10 percent of the gross public floor area is devoted to adult media; or more than 10 percent of the stock in trade consists of adult media; or (2) a media store which advertises or holds itself out in any forum as a **SEXUALLY ORIENTED BUSINESS** by use of such terms as "X-rated," "XXX," "adult," "sex," "nude," or otherwise advertises or holds itself out as a **SEXUALLY ORIENTED BUSINESS**. **(Amended 3)**

ADULT MOTEL means a hotel, motel or similar commercial establishment as regulated by Floyd County; which offers accommodations to the public for any form of consideration; and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are

characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this sex-oriented type of photographic reproductions; or offers a sleeping room for rent for a period of time that is less than 10 hours; or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

ADULT MOTION PICTURE THEATER means a commercial establishment occupying a building or portion of a building (including any portion of a building which contains more than 150 square feet) where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images are regularly shown, if such establishment as a prevailing practice excludes minors by virtue of age, regardless of whether the minor is accompanied by a parent or guardian, or if, as a prevailing practice, the films, motion pictures, video cassettes, slides or similar photographic reproductions, or other projected images presented are characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT NOVELTY STORE means a business offering goods for sale or rent and that meets any of the following tests: (1) more than 5 percent of the stock in trade of the business consists of "sexually-oriented novelties or toys" and more than 5 percent of the gross public floor area of the business is devoted to the display of "sexually-oriented novelties or toys"; or (2) it offers for sale items from any 2 of the following categories: "adult media," "sexually-oriented novelties or toys," apparel or other items marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than 10 percent of the stock in trade of the business and occupies more than 10 percent of the gross public floor area of the business; or (3) which advertises or holds itself out in any forum as a SEXUALLY ORIENTED BUSINESS by use of such terms as "sex toys," "marital aids," "X-rated," "XXX," "adult," "sex," "nude," or otherwise advertises or holds itself out as a SEXUALLY ORIENTED BUSINESS. ADULT NOVELTY STORE shall not include any establishment which, as a substantial portion of its business, offers for sale or rental to persons employed in the medical, legal or education professions anatomical models, including representations of human genital organs or female breasts, or other models, displays, and exhibits produced and marketed primarily for use in the practice of medicine or law or for use by an educational institution.

ADULT THEATER means a theater, concert hall, auditorium, or similar commercial establishment that as a substantial or significant portion of its business regularly features persons who appear in a state of nudity or semi-nudity, live performances which are characterized by an emphasis on the depiction or description of "specified anatomical areas," "specified sexual activities," or live entertainment of an erotic nature that is characterized by an emphasis on the depiction or description of "specified anatomical areas," or "specified sexual activities".

AGRICULTURE, PRIMARY means the production, keeping, cultivation, or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; llamas, chinchilla, ostrich and other specialty animals; fish for commercial sale (aquaculture); trees and forest products; fruits of all kinds; vegetables; nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil conservation or forestry management program.

AGRICULTURE, HOME means the on-site production, principally for use, or consumption of the property owner, or tenants, of plants, or their products including, but not limited to gardening and fruit production. This does not include the sale of products produced on-site to others as long as such sales are incidental to the principle use of the property as a residence.

AGRICULTURAL, SERVICES means establishments primarily engaged in the supplying soil preparation, crop services, equipment and implement sales and service, landscaping, horticultural services, veterinary and other animal services.

AMBULATORY CARE FACILITY means a facility that provides preventive, diagnostic and treatment services to persons who come to the facility, receive services, and depart from the facility on the same day.

ANTENNA means any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services, and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni directional antennas, such as whips.

AUCTION HOUSE/YARD means a place where objects of art, furniture, and other goods (non-livestock) are offered for sale to persons who bid on the object in competition with each other.

AUTOMOBILE REPAIR AND SERVICES means general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including bodywork, welding, and major painting services.

AUTOMOTIVE SALES AND SERVICES means establishments primarily engaged in furnishing automotive repair, rental, leasing, washing, and the retail sales and installation of lubricants, tires, batteries, and similar vehicle accessories.

AUTOMOBILE SALES AND SERVICES means the use of land, buildings, or other premise principally for the display sale, lease, rental of new or used and may include any vehicle preparation, warranty, or repair work conducted as an accessory use.

ALLEY means a right of way other than a street, road, crosswalk or easement, designed to provide a secondary means of access for the special accommodation of the property it reaches.

APPLICANT means a person or persons submitting an application for development.

APPLICATION FOR DEVELOPMENT means an application form and all accompanying documents and exhibits required of an applicant by an approving authority for development review and approval purposes.

ASSISTED LIVING FACILITY means residences primarily for the elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, pharmaceutical services, laundry services, financial services, and transportation. The facility is not primarily designed for patients being treated for mental illness or alcohol or drug addiction.

BAR means an establishment in which alcoholic beverages are served, primarily by drink and where food or packaged liquor may also be served or sold.

BARN means any building or structure used for agricultural purposes

BASE LAND USE ZONE means primary classification of land to which an overlay zone is secondary. Any use permitted in the basic land use district shall also be permitted in an overlay zone.

BED AND BREAKFAST means overnight accommodations and a morning meal in a single family detached dwelling unit provided to transients for compensation.

BLOCK means property abutting on one side of a street, and lying between the two nearest intersecting or intercepting streets, or between the nearest intersection of an intercepting street and railroad right-of-way, waterway or other definite barrier. For purposes of this definition, a cul-de-sac less than 100 feet in length does not constitute an intersecting or intercepting street.

BOARD OF ZONING APPEALS means the Floyd County Board of Zoning Appeals or also known as BZA

BOARDING HOUSE means a dwelling unit or part thereof in which for compensation, lodging and meals are provided including but not limited to personal services.

BUILDING means any structure having a roof supported by columns or walls, and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

BUILDING, HEIGHT OF means the vertical distance measured from the lot ground level to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the eaves line for gable, hip and gambrel roofs. (Amended 2)

BUILDING PRINCIPAL means a building in which is conducted the main or principal use of the lot on which said building is situated. Where a substantial part of an accessory building is attached to the main building in a substantial manner, as by a roof, such accessory building shall be counted as a part of the principal building.

BUILDING AREA means the maximum horizontal projected area of the principal and accessory building, excluding open steps or terraces, unenclosed porches not exceeding one story in height, or architectural appurtenances projecting not more than two (2) feet.

BUILDING SETBACK LINE means the line nearest the front of and across a lot establishing the minimum space to be provided between the front line of buildings or structures requiring permits under the building code and the street right-of-way line.

BUFFER means a natural growth or landscaped area, fence, wall, berm, or combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisance.

BUSINESS OR COMMERCIAL USE means the engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

CAMPGROUND means any area or tract of land used or designed to accommodate two (2) or more travel trailers, mobile homes, or two (2) or more camping parties, including cabins, tents, or other camping outfits.

CARRIER ON WHEELS means a portable self-contained cell site that can be moved to a location and set up to provide personal wireless services on a temporary or emergency basis. A Carrier of Wheels is normally vehicle-mounted and contains a telescoping boom as the Antenna support structure.

CEMETERY means property used for the interment of the dead.

CERTIFICATE OF OCCUPANCY means a certificate stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this ordinance.

CHILD CARE FACILITIES (owner occupied) means an establishment providing non-overnight care, supervision, and protection of children in private residences which is ancillary to the primary use as residential. A residential structure in which at least 6 children (not including the children for whom the provider is a grandparent, parent, step-parent, guardian, custodian, or other relative) at any time receive child care from a provider: (1) while unattended by a parent, legal guardian, or custodian; (2) for regular compensation; (3) for more than 4 hours but less than 24 hours in each of 10 consecutive days per year, excluding Saturdays, Sundays, and holidays.

CHILD CARE CENTER means an establishment providing for the care, supervision and protection of children.

CHILDREN CARE INSTITUTION means a residential facility that provides child care on a 24 hour basis for more than 10 children; or a residential facility with a capacity of not more than 10 children that does not meet the residential structure requirements of a group home; or operates under a license issued under IC 12-17.4; provides for delivery of mental health services that are appropriate to the needs of the individual; and complies under the rules adopted under IC 4-22-2 by the Division of Family and Children or successor agencies.

CHURCH or HOUSE OF WORSHIP means (a) a church, synagogue, temple or mosque, or other facility that is used for prayer by persons of similar faith; (b) a special-purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

CLEAN WATER ACT means the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CLAY BUILDING MATERIAL AND REFRACTORY MANUFACTURING means establishments primarily engaged in shaping, molding, baking, burning, or hardening clay refractory, nonclay refractory, ceramic tile, structural clay tile, brick, and other structural clay building materials

CLINIC OR MEDICAL HEALTH CENTER means an establishment where patients are admitted for special study and treatment by two or more licensed physicians and their professional associates, practicing medicine together.

CO-LOCATION means the act of siting Telecommunication facilities in the same location on the same support structure as other Telecommunications facilities.

COMMERCIAL GREENHOUSE means a structure in which plants, vegetables, flowers and similar materials are grown for sale.

COMMERCIAL KENNEL means any structure or premises on which five or more dogs or other domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

COMMISSION means the Floyd County Plan Commission.

COMMUNITY CENTER means a facility used for recreational, social, educational, and cultural activities.

COMPACT HOME definition deleted (Amended 5)

COMPUTER AND ELECTRONIC PRODUCT MANUFACTURING means manufactures computers, computer peripherals, communications equipment, and similar electronic products, and establishments that manufacture

components for such products. The design and use of integrated circuits and the application of highly specialized miniaturization technologies are common elements in the production technologies of the computer and electronic sub-sector.

CONDITIONAL USE means a use permitted in a particular base zoning district when it is shown that such use in a specified location will comply with all the conditions and standards for the location or operation of the use as specified in the zoning ordinance and authorized by the approving authority.

CONFINED FEEDING OPERATION or CONFINED ANIMAL FEEDING OPERATION means an agricultural livestock feeding operation as defined in Indiana Administrative Code. **(Amended 3)**

CONTIGUOUS means when at least one boundary line of a parcel touches the boundary line of another parcel.

CONSTRUCTION ACTIVITY means land disturbance activities subject to state NPDES General Construction Permits related to "Rule 13" or "Rule 5" or local permits. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

CONVENIENCE STORE means a store that is located on the same lot and is accessory to a gasoline station.

COUNTY COMMISSIONERS means the Board of County Commissioners of Floyd County, Indiana.

COUNTY ENGINEER means the Floyd County Highway Engineer.

COUNTY HEALTH DEPARTMENT means the Floyd County Health Department.

COUNTY PLANNER means the Floyd County Planner.

COUNTY SURVEYOR means the Floyd County Surveyor.

COVENANT means a restriction or affirmative obligation placed on the development or use of land through a written, recorded instrument.

DIAMETER AT BREAST HEIGHT (DBH) means diameter at breast height is a tree trunk diameter measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

DECIDUOUS means plants that drop their foliage annually before becoming dormant.

DEPARTMENT means the Floyd County Plan Commission Office.

DEVELOPER means any individual firm, association syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land, and includes any person who (1) having an interest in land, causes it, directly or indirectly, to be subdivided as defined herein, or (2) directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises to sell, lease, or develop, any interest, lot, parcel, site, or unit in a subdivision, or (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel, site, or unit in a subdivision, or (4) is directly or indirectly controlled by or under direct or indirect common control with any of the foregoing.

DEVELOPMENT means any man-made change to improved or unimproved real estate including but not limited to: Construction, reconstruction, or placement of a building or any addition to a building valued at more than \$1,000 or containing 400 or more square feet in floor area; Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days; Installing utilities, erection of walls and fences, construction of roads, or similar projects; Construction of flood control structures and/or erosion control devices such as levees, dikes, dams, channel improvements, perimeter fencing, etc.; Mining, dredging, filling, grading, excavation, or drilling operations; Construction and/or reconstruction of bridges or culverts; Storage of materials; or Any activity that might change the direction, height, or velocity of flood or surface waters. Development does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing, resurfacing of roads, or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings

DWELLING means a structure or portion thereof that is used exclusively for human habitation.

DWELLING, MANUFACTURED HOME means a dwelling unit designed and built in a factory, installed as a permanent residence, which bear a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.) and which also complies with the following specifications: (1) Was constructed after January 1, 1981, and exceeds 950 square feet of occupiable space per Indiana Code 36-7-4(d), (2) Is attached to a permanent foundation of masonry construction and has a permanent concrete or concrete block perimeter enclosure constructed in accordance with the One and Two Family Dwelling, (3) meets all other requirements set forth in this ordinance and other county ordinances as development standards for manufactured homes.

DWELLING, MOBILE HOME definition deleted. (Amended 5)

DWELLING, MULTI-FAMILY means a building designed for or occupied by two or more families, exclusively for dwelling purposes including units that are located one over another.

DWELLING, SINGLE FAMILY ATTACHED means a one-family dwelling unit with ground floor, outside access, attached to one or more one-family dwellings by common vertical walls without openings.

DWELLING, SINGLE FAMILY DETACHED means a building containing one dwelling unit and that is not attached to any other dwelling unit by any means.

DWELLING, TOWNHOUSE means a one-family dwelling in a row of at least three but not to exceed eight such units in which each unit has its own front and rear access to the outside. No unit can be located over another unit and each unit is separated from any other unit by one or more vertical fire-resistant walls. (Amended 3)

DWELLING, TWO-FAMILY means a building on a single lot containing two dwelling units, each of which is totally separate from each other by an unpierced wall extending from the ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

ELECTRICAL EQUIPMENT, APPLIANCE, AND COMPONENT MANUFACTURING manufacture products that generate, distribute and use electrical power.

ESTABLISHMENT means in the context of SEXUALLY ORIENTED BUSINESS and includes any of the following: (1) the opening or commencement of any SEXUALLY ORIENTED BUSINESS as a new business; (2) the conversion of an existing business, whether or not a SEXUALLY ORIENTED BUSINESS, to any SEXUALLY ORIENTED

BUSINESS; (3) the addition of another SEXUALLY ORIENTED BUSINESS to any other existing SEXUALLY ORIENTED BUSINESS; or (4) the relocation of any SEXUALLY ORIENTED BUSINESS.

FAÇADE means the exterior walls of a building exposed to public view or that a wall viewed by persons not within the building.

FAMILY means one or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nursing home, fraternity or sorority house.

FARM means a tract of land consisting of 5 acres or more and comprising an area which is devoted to agricultural operations, such as forestry, the growing of crops, pasturage, the production of livestock and poultry, the growing of trees, shrubs and plants, and other recognized agricultural pursuits, and including accessory buildings essential to the operation of the farm.

FARM STAND means a structure for the display and sale of farm products primarily grown on the property upon which the stand is located.

FARMER'S MARKET means the seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products, and similar non-animal agricultural products, occurring in pre-designated areas, where the vendors are individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

FEMA means Federal Emergency Management Agency.

FHBM means Flood Hazard Boundary Map.

FIRM means Flood Insurance Rate Map.

FIRM MAP means a map prepared by the Federal Emergency Management Agency (FEMA) for certain streams and water courses in Floyd County for the purpose of establishing Flood Insurance Rates, which map, to the extent that a particular stream or water course is delineated thereon, shall be utilized to ascertain the flood plain of such covered streams and water courses.

FIXTURE (LIGHT) means the assembly that holds the lamp (bulb) in a lighting system, and includes such parts as a reflector, refractor, the ballast, housing and the attachment parts.

FLOOD OR FLOOD WATER – means the water of any river, stream, or lake in Floyd County, Indiana or upon adjoining any boundary line of said County, which is above the bank or outside channel and banks of such river, stream or lake.

FLOODLIGHT means a bulb which projects light in a specific direction in a wide beam, typically 100 degrees or more.

FLOODPLAIN means the floodway and the floodway fringe and any other areas indicated on the Flood Boundary maps as flood prone areas for which no data are available.

FLOODWAY means that area shown on the Floyd County Flood Boundary and Floodway Maps of current adoption as meeting the definition of *floodway* promulgated by the Federal Emergency Management Agency and the Indiana Department of Natural Resources.

FLOODWAY AREA means the channel of river or stream and those portions of the flood plains adjoining the channel thereof which are reasonably required to efficiently carry and discharge the flood water or flood flow of any river or stream, and includes that portion of the flood plain as herein defined, which during a 100-year flood is covered by flood waters in significantly down stream, or an area which is covered by flood waters in significantly volumes of flood waters, as determined by the Department of Natural Resources.

FLOODWAY FRINGE means that area shown on the Floyd County Flood Boundary Maps of current adoption as meeting the definition of *floodway* fringe promulgated by the Federal Emergency Management Agency (FEMA) and the Indiana Department of Natural Resources.

FLOOD HAZARD AREA means any floodplain, floodway, floodway fringe district or any combination thereof as illustrated on the flood boundary and floodway map prepared by the Federal Emergency Management Agency (FEMA). This is the area immediately affected by floodwater during a "one-hundred-year flood."

FLOOD PROOF BUILDING means a commercial or industrial building design to exclude flood waters from the interior of that building. All such flood proofing shall be adequate to withstand the flood depth, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood, and shall be accomplished in accordance with standards for completely flood proof structures contained in Sections 210.2.2 FP2 of the US Army Corps of Engineers Publication entitled "Flood Proofing Regulations", June 1972 Addition, or applicable provisions of any subsequent additions thereof. In every instance of flood proofing to meet requirements of this Ordinance, such flood proofing shall be properly certifies by a registered professional engineer or architect. Residential structures shall not be permitted to utilize flood proofing techniques for the purpose of increasing the flood protection grade of such structure or for the purpose of meeting other requirements of this Code.

FLOOD PROTECTION GRADE means the elevation of the lowest point around the perimeter of a building at which flood water may enter the interior of that building, or with respect to a commercial or industrial building which has been flood proofed, the water surface elevation for which the building is protected. With respect to a residential structure, the phrase "lowest point around the perimeter of the building: shall mean the lowest floor of a building or structure and with respect to those buildings or structures having a basement, the lowest floor of such building or structure shall be the basement floor.

FLOYD COUNTY means and includes, for purposes of this ordinance, Floyd County, Indiana, acting through its duly appointed, qualified, and acting advisory plan commission, together with the officers, employees, attorneys, and designees of said commission.

FOOT-CANDLE means a unit of measurement of the amount of light striking a surface equal to one lumen per square foot.

FULLY SHIELDED means a light fixture which prevents all upward transmission of light, and which, as installed, obstructs a line of sight to the bulb when viewed from the property line at a point at or above a horizontal plane running through the lowest portion of the fixture.

FUNERAL HOME means a building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

FURNITURE AND RELATED PRODUCT MANUFACTURING makes furniture and related articles, such as mattresses, window blinds, cabinets, and fixtures. The processes used in the manufacture of furniture include the cutting, bending, molding, laminating, and assembly of such materials as wood, metal, glass, plastics, and rattan.

Design services may be performed by the furniture establishment's work force or may be purchased from industrial designers.

GC means General Commercial.

GI means General Industrial.

GARAGE, PRIVATE means an accessory building with capacity for not more than four (4) motor vehicles per family, no more than two (2) which may be a commercial vehicle of not more than three (3) tons capacity. A garage designed to house two (2) motor vehicles for each family housed in an apartment shall be classed as a private garage.

GARAGE, PUBLIC means any building, or premises, except those defined herein as a private garage, used for the storage, or care of motor vehicles, or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GEOTECHNICAL ENGINEER means a civil engineer, licensed to practice in the State of Indiana, who by training, education and experience is competent in the practice of geotechnical or soils engineering practices.

GEOTECHNICAL REPORT means the written study and analysis of the site of a proposed development prepared by a geotechnical engineer and focusing on the geotechnical conditions of those areas to be developed. The report shall include the results of such hydrologic studies, laboratory tests, material samplings, test-hole borings and other information and data as shall be reasonably necessary to support each of the conclusions and recommendations of the author with respect to the following matters: (1) the location of significant rock deposits which may limit or restrict the proposed development and methods of mitigation, if any, (2) the presence of soil types, sink holes, springs, water tables, or other surface or subsurface conditions which might pose limitations on the proposed development, together with recommendations for mitigation.

GLARE means the sensation experienced by an observer with a direct line of sight to a light source, exceeding the level to which the observer's eyes are adapted, which often results in annoyance, discomfort, or visual impairment.

GOLF COURSE means a tract of land laid out for at least nine holes for playing the game of golf that may include a clubhouse, dining, and snack bars, pro shop, and practice facilities.

GROSS PUBLIC FLOOR AREA (ADULT BUSINESS) means the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), areas used for cabarets or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.

GROUND FLOOR AREA means the square foot area of a building within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breeze-ways, terraces, garages, exterior and interior stairways.

GARBAGE means all putrescible animal solid, vegetable solid and semi-solid wastes resulting from the processing, handling, preparation, cooking, serving or consumption of food or food materials.

HS means Highway Service District.

HEAT ISLAND EFFECT means an air circulation problem peculiar to urbanized areas whereby heat from buildings, structures, pavements, and concentrations of pollutants create a haze dome that prevents rising hot air from being cooled at its normal rate.

HEALTH CLUB means an establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, and lockers.

HEALTH CARE FACILITY means a facility or institution, whether public or private, principally engaged in providing services for health maintenance and treatment of mental and physical conditions.

HEIGHT means the vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure.

HOME OCCUPATION means any activities carried out for gain by a resident and conducted in the resident's dwelling unit.

HORIZONTAL FOOT-CANDLES means the amount of light striking a horizontal surface.

HOSPITAL means an institution providing primary health services and medical or surgical care of persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including as an integral part of the institution related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

HOTEL means a facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services and recreational facilities.

IDEM means the Indiana Department of Environmental Management.

IDNR means the Indiana Department of Natural Resources.

INTEGRATED CENTER means a commercial development having one (1) or more lots and containing structures totaling more than 100,000 square feet of gross floor space **(Amended 5)**

ILLICIT DISCHARGE means any discharge to a Municipal Separate Storm Sewer System (MS4) that is not composed entirely of storm water except discharges pursuant to a National Pollutant Discharge Elimination System permit (other than Floyd County's NPDES storm water permit) or otherwise defined by this ordinance.

ILLUMINATION means the amount of light striking a surface per unit of area of the surface.

IMPROVEMENT LOCATION PERMIT means a permit stating that the proposed erection, construction; enlargement or moving of a building or structure referred to therein complies with the provisions of the proposed master plan.

INDUSTRIAL ACTIVITY means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

INDOT means Indiana Department of Transportation

INSTALLED means the attachment or fixing in place of an outdoor light fixture, whether or not same is connected to a power source.

ISDH means the Indiana State Department of Health.

JUNK YARD means an area or structure used for the storage, keeping, dismantling, abandonment or sale of junk, scrap metal, scrap vehicles, scrap machinery, and/or scrap equipment.

LETTER OF MAP AMENDMENT (LOMA) means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.

LETTER OF MAP REVISION (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

LIBRARY means a place containing books for reading, study, and research.

LICENSED MOBILE HOME PARK means a tract of land on which two or more Mobile Homes are located. Said tract of land duly licensed by the State Board of Health for use as a Mobile Home Park.

LIGHT SOURCE means the bulb and lens, diffuser, or reflective enclosure, or other parts intended to distribute light.

LIGHT TRESPASS means light projected onto a property from a fixture not located on that property.

LOADING OR UNLOADING BERTHS means the off-street area required for the receipt or distribution of vehicles of material or merchandise.

LODGE means (a) the place where members of a local chapter of an association or a fraternal, cultural, or religious organization hold their meetings; (b) the local chapter itself.

LOT means a parcel, tract or area of land that fronts on a street or place. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder, or it may include parts of or a combination of such parcels when adjacent to one another and used as one. In determining lot and boundary lines, no part thereof within the limits of a street shall be included.

LOT, CORNER means a lot at the junction of and abutting two or more intersecting streets or roads.

LOT COVERAGE means the percentage of the lot area covered by the building area.

LOT, DOUBLE-FRONTAGE means a lot having frontage on two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

LOT FRONTAGE means the required base zone district frontage is contiguous, continuous, and must be owned by the owner of the primary structure while the structure is being used. Under no circumstances shall an easement or an estate less than fee simple interest be considered as part of the frontage. Once a lot has been developed, the frontage may not be transferred in such a manner which would violate any Floyd County Ordinance as to the total lot road frontage for all lots created as a result of such a transfer.

LOT LINE, FRONT means in the case of an interior lot, a line separating the lot from the street or place; and in the

case of a corner lot a line separating the narrowest street frontage of the lot from the street, except in cases where deed restrictions in effect specify another line as the front lot line.

LOT, INTERIOR means a lot other than a Corner Lot or Through Lot.

LOT LINE, REAR means a lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE means any lot boundary line not a front line or a rear lot line.

LOT, THROUGH means a lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH means the distance between side lot lines as measured at and along the front setback line. Cul-de Sac and irregular shaped lots shall measure their front lot widths along the front setback line from one side lot line to the other.

LOWEST FLOOR means the lowest of the following: the basement floor; the garage floor, if the garage is the lowest level of the building; the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or the floor level of any enclosure below an elevated building where walls of the enclosure provide any resistance to the flow of the flood waters unless; the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square foot for every two (2) square feet of enclosed floor area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above the enclosed area's floor. Such enclosed space shall be useable for non-residential purposes and building access.

LUMEN means a measure of the amount of light emitted from a bulb. For purposes of this ordinance, the term shall refer to the light output specification of a new bulb provided by the manufacturer.

MF means Multi-Family District.

MEDICAL AND DIAGNOSTIC LABORATORIES industry comprises establishments known as medical and diagnostic laboratories primarily engaged in providing analytic or diagnostic services, including body fluid analysis and diagnostic imaging, generally to the medical profession or to the patient on referral from a health practitioner.

MEDICAL EQUIPMENT AND SUPPLIES MANUFACTURING This industry comprises establishments primarily engaged in manufacturing medical equipment and supplies. Examples of products made by these establishments are laboratory apparatus and furniture, surgical and medical instruments, surgical appliances and supplies, dental equipment and supplies, orthodontic goods, dentures, and orthodontic appliances.

MINERAL EXTRACTION means mining or quarrying, or removing earth materials.

MOBILE HOME TIE DOWNS; SCHEDULE A means sufficient anchorage to resist flotation, collapse, or lateral movement of any mobile home. As a minimum, such anchorage shall consist of (1) Over-the-top ties provided at each of the 4 corners of the mobile home. with 2 additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only 1 additional tie per side; (2) frame ties provided at each corner of the home with 5 additional ties per side at intermediate points and mobile homes less than 50 feet long requiring 4 additional ties

per side; (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; (4) Any additions to the mobile home be similarly anchored; and (5) adequate drainage and access for a hauler shall be provided.

MOBILE/MANUFACTURED HOME PARK means an area of land on which two or more mobile homes are regularly accommodated with or without charge, including any building utilities or other structure, fixture or equipment that is used or intended to be used in providing that accommodation.

MODULAR UNIT means a factory built housing unit designed to be transported to a building site usually in pairs, and installed on the site.

MONOPOLE means a single, freestanding pole-type structure supporting one or more antenna. (Amended 3)

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) means any facility designed or used for collecting and/or conveying storm water, including, but not limited to, any roads with drainage systems, highways, streets, curbs, gutters, inlets, catch basins, piped storm drains, pumping facilities, structural storm water controls, ditches, swales, natural and man-made or altered drainage channels, reservoirs, and other drainage structures, and which is:

- a) Owned or maintained by Floyd County;
- b) Not a combined sewer; and
- c) Not part of a publicly-owned treatment works.

MINI-STORAGE means a building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

NC means Neighborhood Commercial District.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT means a permit issued by the Indiana Department of Environmental Management (IDEM) under delegated authority by the United States Environmental Protection Agency (USEPA), whether the permit is applicable on an individual, group, or general area-wide basis.

NATURAL RESOURCES mean the Indiana Natural Resources Commission.

NON-STORM WATER DISCHARGE means any discharge to the storm drainage system that is not composed entirely of storm water.

NUDITY or STATE OF NUDITY or NUDE means exposing to view the genitals, pubic area, vulva, perineum, anus, anal cleft or cleavage, or pubic hair with less than a fully opaque covering; exposing to view any portion of the areola of the female breast with less than a fully opaque covering; exposing to view male genitals in a discernibly turgid state, even if entirely covered by an opaque covering; or exposing to view any device, costume, or covering that gives the appearance of or simulates any of these anatomical areas.

NRCS means the Natural Resources Conservation Service

OB means Office-Business District

OIL CHANGING FACILITY means an establishment that provides the lubrication and/or checking, changing, or additions of those fluids and filters necessary to the maintenance of a motor vehicle.

OFFICE COMPLEX/OFFICE PARK means a development of a tract of land that contains a number of separate office buildings, with accessory and supporting uses, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.

OFF-SITE PARKING means parking provided for a specific use but located on a site other than the one on which the specific use is located.

OFF-STREET PARKING means a temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

ONE AND TWO FAMILY DWELLING CODE means the nationally recognized model building code adopted by the Indiana Administrative Building Council (ABC) as a statewide code for the construction of one and two family dwellings in the state and which includes those supplements and amendments promulgated by the ABC.

OPEN SPACE means any parcel or area of land or water, essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests.

OPEN SPACE (FORMAL) means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use, enjoyment as well as the use and enjoyment of owners, occupants, and their guests. Formal Open space may include parks, commons, plazas, community green or lawn, or other areas, decorative plantings, formal or informal gardens, pedestrian walkways or paths, and active or passive recreation areas (swimming pools, tennis courts, playgrounds, etc.).

OPERATE or **CAUSE TO OPERATE** means in the context of SEXUALLY ORIENTED BUSINESS to cause to function, or to put or keep in a state of doing business. Operator means any person on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business, or who causes it to function or who puts or keeps it in operation. A person may be found to be operating or causing to be operated a sexually oriented business, whether or not that person is an owner or part owner of the business.

OUTDOOR ILLUMINATING DEVICE means light sources, reflective surfaces, lamps, fixtures, or similar devices, whether portable or permanently installed, used for illumination or advertisement which is not located within an enclosed structure.

OVERLAY DISTRICT means an additional secondary classification of land which permits or restricts use of land.

PR means Park-Recreation District

PACKAGE WASTEWATER TREATMENT PLANT means a mechanical facility, whether prefabricated or site-built, used by a sewage disposal company in providing a sewage disposal service, as permitted under a certificate of territorial authority (CTA) issued by the Indiana Utility Regulatory Commission pursuant to Title 8 of the Indiana Code or other applicable law or regulation. For purposes of this definition, the term "facility" shall include all sewage treatment plants, main sewers, submain sewers, force mains, pumping stations, ejector stations, and all other equipment and appurtenances necessary or useful and convenient for rendering a sewage disposal service. The term A "Package Wastewater Treatment Plant" shall not include those facilities owned or operated by a municipal corporation, as defined by I.C. 36-1-2-10, or those which process sewage exclusively from one or more public or private schools located in Floyd County.

PARKING AREA, PUBLIC means an open area, other than a street or alley designed for use or used for the temporary parking of more than four motor vehicles when available for public use, whether free or for compensation, as an accommodation, for clients or customers.

PARTIALLY SHIELDED means a light fixture shielded or constructed so that no more than ten percent of the light rays are emitted by the installed fixture at angles above the horizontal plane.

PAVED means a durable surface for parking, driving, riding or similar activities, that utilizes asphalt, concrete, brick, paving blocks or similar material. Crushed gravel, stone, rock, dirt, sand, or grass is not permitted as a paved surface.

PERFORMANCE BOND means an amount of money or other negotiable security paid by the developer, property owner or his/her surety to the County which guarantees that the developer or property Owner will perform all actions required by the County in regards to an approved plat or other situations stated in this Ordinance and/Or as deemed by the Planning Director that Provides that if the Developer or Property Owner defaults and fails to comply with the provisions of his/her approval, the developer or Property Owner or his/Her Surety will pay damages up to the limit of the bond, or the surety will itself complete the requirements of the approval.

PERMANENT FOUNDATION means a structural system for transposing loads from a Structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

PERSON means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

PARKING SPACE means a space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than 9 feet wide and 18 feet long exclusive of passageways.

PERMITTEE means a person whose name appears on the permit/application to operate a sexually oriented business.

PERSON means an individual, corporation, firm, partnership, association, organization or any other unit or legal entity.

PERSONAL SERVICES means establishments primarily engaged in providing services involving the care of a person or his/her personal goods and/or apparel.

PLACE means an open, unoccupied space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

PLANNED UNIT DEVELOPMENT (PD) means an area of land that is under unified control and is planned and developed as a whole and containing a single land use or a mix of land uses in a single development operation or a definitely programmed series of development phases. The development may include streets, circulation ways, parking, utilities, buildings, open spaces, and other site features and improvements. A Planned Unit Development is built according to approved general and detailed plans including a map showing the entire development area, a text that establishes the uses and development standards to be used and exhibits that further describe the development. A Planned Unit Development includes a program for the provision, operation and maintenance of any areas, facilities and improvements as will be for common use.

PLANNING DIRECTOR means the County Plan Commission Executive Director.

PLAT means a map or chart that shows a division of land and is intended to be filed for record.

PLAT REVIEW COMMITTEE means a committee established by the Commission to assist with the technical evaluation of developments and to make appropriate technical recommendations to the Commission and Department.

POLLUTANT means anything of a chemical component or nature which causes or contributes to pollution.

POLLUTION means the presence of matter or energy whose nature, location or quantity produces undesired environmental effects. **(Amended 3)**

PREMISES mean any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

PROFESSIONAL OFFICE means an office for the following members of recognized professions and auxiliary services: accountants, advertising agents, architects, artists, attorneys-at-law, banking, chiropodists, chiropractors, dentists, educational support services, employment service, financial service, insurance agents, landscape architects, land surveyors, opticians, optometrists, osteopaths, physicians, professional consultant services, real estate brokers, professional engineers and surgeons.

PROPERTY OWNER means any person who has a legal or equitable interest in the property or his authorized representative.

PUBLIC SEWER means a sewage disposal service operated by a recognized governmental unit or political subdivision thereof within the State of Indiana.

PUBLIC RECREATION AREA (Mobile Home) means an area set aside for recreational use. Said area may contain play ground equipment, swimming pool, game courts, etc... and is reserved for park occupants.

PUBLIC PARK means a tract of land owned by a branch of government and available to the general public for recreational purposes.

RR means Rural Residential District.

RS mean Residential Suburban District.

RU means Residential Urban District.

RECREATION, ACTIVE means leisure-time activities, usually of a formal nature and often performed with others, such as basketball, softball, baseball, tennis, soccer. Active recreation requires equipment and takes place at prescribed places, sites, courts, or fields.

RECREATION, PASSIVE means activities that involve relatively inactive or less energetic activities, such as but not limited to walking, sitting, picnicking, board and table games.

RECREATIONAL VEHICLE means a vehicular type portable structure without permanent foundation that can be hauled, towed, or driven and is primarily designed as a temporary living accommodation for recreational and camping purposes.

REGULATORY FLOOD means that flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission. This flood is equivalent to a flood having a probability of occurrence of 1 percent in a given year, and included the entirety of the flood plain as herein defined.

REGULATORY FLOOD PROFILE means a longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

RESEARCH CENTER means a facility for investigation into natural, physical, or social sciences which may include engineering and product development.

RESPONSIBLE PARTY means the person causing or permitting a prohibited discharge in violation of this ordinance, or the person in control of, or having the right to control, the property or premises from which a prohibited discharge has occurred.

RETAIL SERVICES means establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including amusement and recreational services, educational services, social services, museums, and galleries.

RETAIL USE, SMALL SCALE means a retail establishment up to 5,000 square feet primarily engaged in the selling or rental of goods and/or merchandise and in rendering services incidental to the sale of such goods.

RETAIL SALES, OUTDOOR means the display and sale of products and services, primarily outside of a building, or structure, including vehicles; garden supplies, flowers, shrubs, and other plants materials; gas, tires, and motor oil, and beverages, boats, aircraft, farm equipment, motor homes, building and landscape materials and lumberyards.

RETAIL USE, LARGE SCALE means a retail establishment 5,000 square feet and more primarily engaged in the selling or rental of goods and/or merchandise and in rendering services incidental to the sale of such goods.

RETAIL NURSERY means the growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers, as well as the sale of garden tools and similar accessories to the general public.

RESIDENTIAL DISTRICT means a district which permits primarily residential uses.

RESIDENTIAL FACILITY FOR THE DEVELOPMENTALLY DISABLED (A) means a residential facility which provides residential services for more than 8 developmentally disabled individuals as described in IC 12-28-4.

RESIDENTIAL FACILITY FOR THE DEVELOPMENTALLY DISABLED (B) means a residential facility which provides residential services for 8 or less developmentally disabled individuals as described in IC 12-28-4.

REFUSE means all putrescible and nonputrescible solid, and semi-solid wastes, except human excreta, but including garbage, rubbish, ashes, abandoned automobiles, street cleanings, dead animals offal and solid commercial, industrial, and institutional wastes.

REFUSE DUMP means a lot, or any portion of a lot, where refuse is placed.

REGULARLY FEATURES means the consistent and repeated offering of the identified goods or services to the public as one of the intended profit-making objectives of the commercial enterprise, which enterprise regularly holds itself forth to the public as a place where such goods or services may be obtained.

RESTAURANT, DRIVE-THRU means an establishment where food and/or beverages are sold in a form ready for consumption, where all or significant part of the consumption takes place outside the confines of the restaurant, and where ordering and pick-up of food may take place in an automobile.

RESTAURANT, FULL SERVICE means an establishment where food and drink are prepared, served and consumed mostly within the principal building.

RESTAURANT, OUTDOORS means any part of the food establishment located outdoors, not used for any other purposes, and open to the sky with the exception that it may have a retractable awning or umbrellas, and may contain furniture, including but not limited to planters, tables, railing, chairs, that are readily moveable.

RETIREMENT COMMUNITY means any age-restricted development, which may be in any housing form, including detached and attached dwelling units, apartments, and residences, offering private and semi-private rooms.

SANITARY LANDFILL means a site for solid waste disposal in which a fee or compensation is taken in exchange for usage. (Amended 3)

SANITARY SEWER SYSTEM means a system which processes sewage by transferring the effluent via a system of pipes to a central processing facility operating off the premises which created the effluent.

SCHOOL means any nursery school; daycare facility; preschool; kindergarten school; public or private elementary, middle or secondary school; special education school; vocational school, junior college or college and university. A school includes all school grounds.

SCIENTIFIC RESEARCH AND DEVELOPMENT SERVICES industry group comprises establishments engaged in conducting original investigation undertaken on a systematic basis to gain new knowledge (research) and/or the application of research findings or other scientific knowledge for the creation of new or significantly improved products or processes (experimental development). The industries within this industry group are defined on the basis of the domain of research; that is, on the scientific expertise of the establishment.

SCREENING means a divider, partition, or fence of suitable material used to enclose a property to afford privacy and security to the residents and neighbors.

SEMI-NUDITY or SEMINUDE CONDITION or SEMI-NUDE means exposing to view, with less than a fully opaque covering, any portion of the female breast below the top of the areola or any portion of the buttocks. This definition shall include the entire lower portion of the female breast, but shall not include any portion of the cleavage of the female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided that the areola is not exposed in whole or in part.

SEWAGE DISPOSAL COMPANY means any natural person, firm, association, corporation, or partnership, owning, leasing, or operating a sewage disposal service within Floyd County, Indiana, pursuant to a CTA issued by the

Indiana Utility Regulatory Commission.

SEWAGE DISPOSAL SERVICE means any public utility service performed by a sewage disposal company whereby liquid and solid waste, sewage, night soil, and industrial waste of any single territorial area is collected, treated, purified, and disposed of in a sanitary manner.

SEXUAL DEVICE means any three-dimensional object designed and marketed for stimulation of the male or female human genital organ or anus, or for sadomasochistic use or abuse of oneself or others, and shall include devices such as dildos, vibrators and penis pumps, and shall also include other devices with non-sex related utility, such as leather whips, straps and ligatures, when such devices are marketed in a context suggesting sexual or sadomasochistic purposes. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

SEXUALLY ORIENTED BUSINESS means an adult arcade, adult media store, adult novelty store, adult cabaret, adult motion picture theater, adult theater, nude model studio, or sexual encounter center.

SEXUALLY ORIENTED NOVELTIES OR TOYS means instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs or for use in connection with "specified sexual activities."

SEXUAL ENCOUNTER PLACE means a commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration: physical contact in any form between persons of the opposite sex; or (2) activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is semi-nude.

SEXUAL ENCOUNTER PLACE shall not include: (1) any establishment or professional practice operated or conducted by a medical practitioner, physical therapist, rehabilitation therapist, or a massage therapist, if such person is licensed by or registered with the State of Indiana or licensed by the Floyd County, while practicing within the scope of such license or registration and according to the standards and ethics of such profession or of any person acting under the supervision of a medical practitioner, physical therapist, rehabilitation therapist, or massage therapist; or (2) any establishment or professional practice operated or conducted by a health care professional licensed in the State of Indiana while practicing within the scope of such license and according to the standards and ethics of such profession or of any person acting under the supervision of a licensed health care professional.

SIGHT VISIBILITY TRIANGLE means a triangular shaped portion of land established at street intersection in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

SIGNS mean any board, devise or structure or part thereof used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or regulations for other governmental purposes shall not be included herein.

SIGN, ANIMATED OR MOVING means any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation that is not permitted herein as a electronic sign. Incidental signs that verify customers have placed orders and that are incidental are not considered as an animated or moving sign. Incidental signs shall not exceed 4 square feet in sign area. (Amended 5)

SIGN AREA means the entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the support structure. For double-sided identical signs, only one sign constitutes total sign area.

SIGN, AWNING means a sign that is mounted, painted, or attached to an awning or other window or door canopy that is otherwise permitted by ordinance.

SIGN, BANNER means a temporary sign of cloth or similar material that celebrates an event, season, community, neighborhood, or district and is sponsored by recognized community agency or organization.

SIGN, CONSTRUCTION means a temporary sign erected on the premises where construction is taking place, during the period of such construction, indicating the names of architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

SIGN, DIRECTIONAL means signs limited to directional messages such as "entrance" and/or "exit"

SIGN, ELECTRONIC VARIABLE MESSAGE means a permanent sign capable of displaying words, symbols, figures, or images that uses an electronic display created through the use of a pattern of lights in a dot matrix configuration, LED (light emitting diode) or digital technology which allows for the sign face to intermittently change the image without having to physically or mechanically replace the sign face. **(Amended 5)**

SIGN, FACE means the area or display surface used for the message.

SIGN, FREESTANDING means any non-moveable sign not affixed to a building.

SIGN, GOVERNMENTAL means a sign erected and maintained pursuant to and in discharge of any governmental functions or required by law, ordinance, or other governmental regulation.

SIGN, GROUND means a freestanding sign other than a pole sign in which the entire bottom is in contact with or close to the ground.

SIGN, MARQUEE/READER BOARD means any sign made a part of a marquee and/or reader board and designed to have changeable copy either electronically or manually. Any electronic portion of a reader board sign shall contain only static messages. Any display that contains or displays animated, variable, moving video or scrolling advertising shall be considered an Electronic Variable Message Sign. Each message on a marquee sign must be displayed for a minimum time of 24 hours. **(Amended 5)**

SIGN, (OFF-PREMISES) means any commercial board, device, or structure or part thereof used for advertising, display, or publicity purposes that does not relate or direct attention to the activity or use that is located on the premises. **(Amended 3)**

SIGN, (ON-PREMISE) means any board, device, or structure or part thereof used for advertising, display or publicity purposes that relates or directs attention to the activity or use on the premises where the sign is located. **(Amended 3)**

SIGN, POLE means a sign that is mounted on a free-standing pole or other support so that the bottom of the sign face is six feet or more above grade. **(Amended 1)**

SIGN, PROJECTION means on a sign attached to a wall, the distance from the exterior wall surface to the sign element farthest from such surface.

SIGN, ROOF means a sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top edge of the roof of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof or the deck line of a building with a mansard roof. **(Amended 3)**

SIGN, TIME AND TEMPERATURE means a limited function display which through analogical or digital methods, electronically presents the time of day or current temperature. Time and Temperature displays which, through their configuration area capable of presenting other electronic messages shall be considered electronic variable message signs. **(Amended 5)**

SIGN, WALL means a sign fastened to, or painted on, the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than 12 inches from such building or structure. Measurement of a wall sign without defined sign background will be largest horizontal width by the largest vertical width.

SKIRTING means the material used to enclose the area under the Mobile Home.

SPECIAL EXCEPTION means a variance of use from a base zoning district's permitted or conditional uses.

SPECIALTY TRADE CONTRACTORS primary activity is performing specific activities (e.g., pouring concrete, site preparation, plumbing, painting, and electrical work) involved in building construction or other activities that are similar for all types of construction but that are not responsible for the entire project. The work performed may include new work, additions, alterations, maintenance, and repairs.

SPECIFIED ANATOMICAL AREAS means less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES means any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or (3) excretory functions as part of or in connection with any of the activities set forth in (1) and (2) above.

SPOTLIGHT means a bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

STAND means the area set aside for a Mobile Home on any given site.

STANDARD OF PRACTICE FOR RESIDENTIAL CONSTRUCTION STORM WATER MANAGEMENT means a document that defines the management practices for erosion prevention, sediment control and other construction site waste management by which homebuilders may use as guidance and minimum expectations to be achieved during inspections by Floyd County. In the event that this document is not published, then the "Indiana Storm water Quality Manual" or the "Indiana Handbook for Erosion and Sediment Control in Urban Areas" developed by Indiana Department of Natural Resources (IDNR) may be used as an equivalent guide.

STEALTH TELECOMMUNICATIONS FACILITY means any Telecommunications Facility that is integrated as an architectural feature of a structure so that the purpose of the Facility for providing wireless services is not readily apparent to a causal observer.

STEEP SLOPE means a slope of 20 percent or greater over any 100 foot segment prior to cut and fill.

STREET means a right-of-way dedicated or otherwise legally established for public use, which affords the principal means of access to abutting property. A Street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name. A Street may also be classified according to function as follows:

- A. **Freeways/expressways** are limited-access highways which carry large volumes of traffic and have more importance regionally than locally. They often contain four or more moving lanes and permit a continuous high-speed traffic flow. These highways have a high order of design and construction requirements.
- B. **Arterials** are high capacity/high volume thoroughfares. They provide access to and through the County. The main function of these roads is mobility, not access to property. Three different types of arterials are classified for the purposes of this title. They are: major arterials, minor arterials and one-way arterials.
- C. **Collector roads** function as a collection and distribution system. These medium-volume and capacity roads collect and distribute traffic to and from streets of lower classification to arterial roads and/or activity centers. Mobility has a much higher priority than access to property on these roads. Collector roads may be characterized as major or minor.
- D. **Local roads** are medium-volume roads that form the majority of the county road network. Often they are part of the numbered street system and are typically longer than subdivision streets. While in some cases these streets may provide direct access to property, their primary function is traffic movement.
- E. **Subdivision streets** are low capacity and low speed roads whose function is to provide access to homes and property. Through traffic and heavy use of these roads should be discouraged. To the extent possible, residential driveways and ingress and egress points to other uses or structures should be oriented to the local roads rather than to arterials or collectors.
- F. **Marginal access streets** are local roads that are parallel to, and separated by a limited access landscape buffer strip from arterial streets and highways. These roads provide for access to abutting property on one side only.
- G. **Cul-de-sac Street** is a local road or subdivision street with only one outlet, having a paved, circular turn-around area at the closed end.
- H. **Alley** is a minor way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

STREET, DEAD-END means any street with only one outlet but having no paved turn-around at the closed end.

STOCK IN TRADE means the individual items displayed in areas open to the public and offered for sale or rental in an establishment.

STORM WATER RUNOFF OR STORM WATER means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORY means that portion of a building between a floor and the next floor above, or the roof.

STRUCTURAL ALTERATION means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any substantial change in the exterior walls or the roof.

STRUCTURE means anything constructed or erected which requires location on the ground or attachment to something having a location on the ground.

STRUCTURAL STORM WATER CONTROL OR BEST MANAGEMENT PRACTICE (BMP) means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

STRUCTURE, PRINCIPAL means a building in which is conducted the principal use of the lot on which it is located.

STRUCTURE, ACCESSORY means a subordinate structure on the same lot as the principal building or use

SUBSTANTIAL ALTERATION means a building or structure, the increase of the exterior size, bulk or dimensions, of a building or structure. Such an enlargement is considered to occur when the first significant alteration of any wall, ceiling, floor or other structural element of that building or structure commences.

SUBSTANTIAL ENLARGEMENT of a SEXUALLY ORIENTED BUSINESS means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this ordinance takes effect.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or Any alteration of a "historic structure", providing that the alteration will not preclude the structure's continued designation as "historic structure".

SUBSTANTIAL MODIFICATION means any alteration, repair enlargement or extension of an existing building. Such substantial modification is considered to occur when the first alteration of any wall, ceiling, floor or other structural element of the building commences. This term does not, however, include (1) any project for improvement of a structure to comply with the existing health, sanitary or safety code specifications or (2) any alteration of a structure listed on the National register of Historical Places or the Indiana State Survey of Historic, Architectural, Archeological and Cultural Sites, Structured, Districts and Objects.

SUBDIVISION means the division of a parcel of land into two or more lots, parcels, sites, units, plats or interests for the purpose of offer, sale, lease, or development.

SUPPORT STRUCTURE(S) means a structure primarily designed to support Telecommunications Facilities including, but not limited to, Monopoles, Towers, and other freestanding self-supporting structures.

TELECOMMUNICATION TOWERS AND FACILITIES means any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone services, personal communications service, and paging service. A Telecommunication Facility consists of one or more Antennas and accessory equipment.

TEMPORARY USE means a use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

TOWER means a lattice-type structure, guyed or freestanding, that supports one or more Antennas.

TRADE OR BUSINESS SCHOOL means secretarial or Business School or College when not publicly owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for teaching industrial or technical arts.

TRADE SHOP means establishments, also known as machine shops primarily engaged in machining metal parts on a job or order basis. Generally machine shop jobs are low volume using machine tools, such as lathes (including computer numerically controlled); automatic screw machines; and machines for boring, grinding, and milling

TRAVEL CENTER means any building, premises, or land in which or upon which a business or service involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles, and which may include overnight accommodations and restaurant facilities. *(Amended 1)*

TRAVEL TRAILER means a vehicle or other portable structure that is designed to move on the highway and designed or used as a temporary dwelling.

TRAVEL TRAILER PARK means an area of land on which two or more travel trailers are regularly accommodated with or without charge, including any building or structure, fixture or equipment that is used or intended to be used in connection with providing that accommodation.

UNDILUTED DISCHARGES means a discharge that has not been mixed with that of another source such as another septic tank.

USE means the employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

USE, LEGAL NONCONFORMING means an existing use of land or building that meet the requirements of previous ordinance but now which fails to comply with the requirements set forth in this ordinance.

USE, ILLEGAL NONCONFORMING means an existing use of land or building that did not meet the requirements previous ordinance and now which fails to comply with the requirements set forth in this ordinance.

VARIANCE means a modification of the specific requirements of this ordinance granted by the Board in accordance with the terms of this ordinance for the purpose or assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and district.

VERTICAL FOOT-CANDLES means the amount of light striking a vertical surface.

WAREHOUSING AND STORAGE are primarily engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other warehouse products. These establishments provide facilities to store goods. They do not sell the goods they handle. These establishments take responsibility for storing the goods and keeping them secure. They may also provide a range of services, often referred to as logistics services, and related to the distribution of goods. Logistics services can include labeling, breaking bulk, inventory control and management, light assembly, order entry and fulfillment, packaging, pick and pack, price marking and ticketing, and transportation arrangement.

WATERS OF THE STATE means any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface and subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State of Indiana which are not entirely confined and retained completely upon the property of a single Person.

WETLAND means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. [33 C.F.R. ' 328.3(b)]

WHOLESALE TRADE means establishments or places of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise to, such individuals or companies.

WHOLESALE NURSERY means the growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs to landscapers, developers, builders, and retail nurseries.

WOOD PRODUCT MANUFACTURING industries manufacture wood products, such as lumber, plywood, veneers, wood containers, wood flooring, wood trusses, manufactured homes (i.e., mobile home), and prefabricated wood buildings. The production processes of the Wood Product Manufacturing sub sector include sawing, planing, shaping, laminating, and assembling of wood products starting from logs that are cut into bolts, or lumber that then may be further cut, or shaped by lathes or other shaping tools. The lumber or other transformed wood shapes may also be subsequently planed or smoothed, and assembled into finished products.

YARD means a space on the same lot with a main building, open, unoccupied and unobstructed by structures, except as otherwise provided in this ordinance.

YARD, FRONT means a yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the street right of way line and the building line.

YARD, REAR means a yard expending across the full width of the lot, between the rear of the main building and the rear lot line unoccupied other than by accessory buildings which do not occupy more than 30 percent of the required space, the depth of which is the least distance between the rear lot line and the rear of such main building.

YARD, SIDE means a yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear

ZONE A means floodplain.

Section 3.01 Introduction for Non-Conforming Structures, Lots, Uses

All structures, land uses, land changes, structural alternations, structural relocations, structural additions, and structural enlargements that are constructed, created, established, or otherwise occur after the effective date of this Ordinance shall be subject to all development standards and regulations for the applicable zoning district.

Section 3.02 Intent for Non-Conforming Structures, Lots, and Uses

Upon adoption of this Ordinance and Official Zoning Map, some structures, lots, and uses may no longer conform to the regulations of the zoning district in which they are located. For this reason, this section has been added to provide rules, policies and regulations that apply to these structures, lots, and uses; referred to as legal non-conforming.

Section 3.03 Illegal non-conforming and Legal non-conforming defined

- A. A use, structure, lot or sign which was constructed or is being used without an approved improvement location permit or approval from the Plan Commission or Board of Zoning Appeals is considered illegal non-conforming. An illegal non-conforming use, structure, lot or sign shall be subject to actions and penalties allowed by this Ordinance and all other applicable County regulations, policies and laws.
- B. Legal non-conforming uses, structures, lots, and signs nonconformity is based on the enactment of a new or changes to a Zoning Ordinance. The use, structure, lot or sign has not changed, but no longer conforms to the standards of the zoning district.

Section 3.04 Burden of Proof

The burden of proof regarding whether a use, structure, lot, sign or other characteristic of property is legally established as nonconforming shall be on the owner solely. The Planning Director, or selected designee, shall make the determination as to whether the evidence is sufficient to consider the property legal non-conforming. Such determination may be appealed to the Planning Director by the property owner within 30 calendar days of receipt of written notice from the Plan Commission Director. The property owner must file a written notice of appeal with the Plan Commission.

Section 3.05 Legal Non-Conforming Lots/Parcels

Parcels and/or lots that were in existence and in compliance with all land use and other laws on the date of the passage of this ordinance, and, further, that do not conform to the height, bulk, area and density regulations set forth in this ordinance, shall be deemed to be a legal non-conforming parcel/lot that may be occupied or used subject to the following:

- A. The legal non-conforming parcel may not be further developed until compliance with the ordinance and/or the legal non-conforming status is demonstrated or until a variance from the terms of the ordinance is obtained. A legal lot of record created before the effective date of this section may use an alternative sewage disposal system and water supply system provided the lot is capable of containing a water supply and the sewage disposal system meets the requirements and is acceptable to the Floyd County Health Department. **(Amended 3)**

Section 3.06 Legal Non-Conforming Structures and Uses

Legal non-conforming uses/structures shall be allowed to continue in accordance with the following limitations:

- A. Expansion of legal non-conforming uses is prohibited except as stated below.
 - 1. A change from one legal non-conforming use to another non-conforming use requires a special exception through the Board of Zoning Appeals.
- B. A legal non-conforming use which ceases operation for a period of 1 year shall no longer be considered legal non-conforming and shall be thereafter prohibited. Exempt from this provision is when the legal non-conforming use is discontinued due to the results from fire, flood, wind, earthquake, or other calamity or act of God. Such exempt uses if rebuilt or restored, shall be identical in scale, lot coverage and all other aspects to that which was discontinued and shall be started within 1 year from time of discontinuation and is diligently prosecuted to completion.
- C. A legal non-conforming use may only be moved to a property in a zoning district in which the use is permitted by right in that zoning district.
- D. Any enlargement, alteration, or expansion of a legal non-conforming structure that increases the degree of nonconformity shall be prohibited except as stated below.
 - 1. For structures used for single-family residential, commercial and/or industrial activities, the floor area of the structure(s) can be expanded by 10 percent of the floor area at the time the structure(s) became legal non-conforming, provided either:
 - a. The building and site meet current regulations.
 - b. The building and site are changed to the extent practical, as determined by the Plan Commission to reduce the degree of non-conformity.
- E. A legal nonconforming structure which is damaged or partially destroyed by fire, flood, wind, earthquake or other calamity or act of God may be restored and the occupancy or use of such building, structure, or part thereof which existed at the time of such destruction may be continued or resumed, provided that such restoration is started within a period of 1 year of destruction and is diligently prosecuted to completion.
- F. A legal non-conforming structure may be repaired and maintained, provided there is no extension, alteration, expansion or substitution of the non-conforming structure.
- G. A legal non-conforming structure and or use shall not be moved to a different property in the County unless it is situated on the new property in conformance with the regulations of the zoning district in which the property is located. A legal non-conforming structure may be relocated on the property on which it is located to decrease the degree of nonconformity.

3.07 Legal Non-Conforming Signs

A legal non-conforming signs shall be subject to the following regulations.

- A. A legal non-conforming sign may be altered in a way that does not increase its height and size, or change its perimeter shape or location, without bringing the entire sign into conformance, provided the cost of such

alteration is not more than 50 percent of the replacement cost of the sign. A sign or portion of a sign may be altered to change its copy or to decrease its nonconformity.

- B. In the event a legal non-conforming sign is damaged or destroyed due to the results of fire, flood, wind, earthquake, vandalism, or other calamity or act of God, the sign can be rebuilt or restored to its identical size in height and sign area. **(Amended 4)**
- C. A legal non-conforming sign shall not be moved to a different property in the County unless it is situated on the new property in conformance with the applicable regulations of this Ordinance. A legal non-conforming sign may be relocated on the property which it is located to decrease the degree of nonconformity.

Section 4.01 Establishment of Standard Districts

For the purpose of this ordinance, the planning jurisdiction is divided into the following zoning districts for general uses as stated. These districts shall be indicated on the Official Zoning Map and labeled using the two-digit codes as noted below.

Each of the zoning districts stands alone and is not part of a hierarchy-system of zoning. For example, permitted uses in AR district are not permitted in the RS district unless expressly listed as such in the RS district. Only those uses and development standards which are expressly permitted and noted for each district apply to that district.

Single Family Residential District(s)

AR – Agricultural Residential

RR –Residential Rural

RS –Residential Suburban

Multi-Family Residential District(s)

RU – Residential Urban

MF – Multi-Family Residential

Commercial District(s)

NC – Neighborhood Commercial

GC – General Commercial

HS – Highway Service

Industrial District(s)

OB- Office-Business

GI- General Industrial

Other District(s)

PR- Park-Recreation

MH – Manufactured Home Park (deleted Amendment 5)

Section 4.02 Standard District and Land Uses

Specific land uses are either permitted, non-permitted, or conditional use in each zoning District. Floyd County's permitted uses for each district are noted in the Permitted and Conditional Use column and in the land use matrix section located in Appendix A of this Ordinance.

Section 4.03 Establishment of Overlay Districts

The overlay districts noted below have been established to provide additional development standards that respond to unique characteristics of the properties to which it applies. When added to the requirements of the standard zoning districts it will assist Floyd County in providing for the public welfare and accomplishing the goals of the Floyd County Comprehensive Plan. Both those uses and development standards which are expressly permitted and noted for the overlay districts and the underlying standard district shall apply to the properties included in the overlay districts. This overlay district shall be indicated on the Official Zoning Map using the two-digit code and a specific pattern.

HP – Highlander Point/US 150 Gateway Overlay District

ED – Edwardsville Gateway Overlay District

SD – Steep Slope Overlay District

Section 4.04 Establishment of Planned Unit Development District

This Ordinance allows for the following zoning districts to be rezoned for the creation of a planned unit development. Planned Unit Development districts are allowed in the following: RR, RS, RU, NC, GC, HS, OB, and GI. All planned unit developments shall be consistent with the development and performance requirements for the base zoning district in which the Planned Unit Development is being considered. These development and performance standard requirements can be found in this Ordinance. Planned Unit Development (PD) shall be indicated on the Official Zoning Map using the two-digit code (PD).

PD – Planned Unit Development

Section 4.05 Unlisted or Questionable Land Uses

Any use not listed as permitted or conditional use is considered a non-permitted unless the Planning Director makes a determination otherwise. The Planning Director may determine into which category any questionable use be placed if it is not specifically listed but similar to another use that is permitted use or conditional use. This determination may be appealed to the Board of Zoning Appeals.

Section 4.06 Agricultural-Residential (AR)

District Intent: The Agricultural-Residential (AR) district is intended to provide a land use category for primarily agricultural and agricultural-oriented uses. The provisions that regulate this land use should promote, protect and maintain areas for agricultural uses. The provisions should also promote, protect and maintain environmentally sensitive areas and natural resources. Residential development should be developed to assimilate and be compatible with agricultural operations and surrounding natural resources.

Floyd County's Plan Commission and Board of Zoning Appeals should strive to protect agricultural uses from conflicting land uses, non-agricultural commercial uses and any use that may cause significant impact to the environment. The Plan Commission and the Board of Zoning Appeals should strive to promote an average density of 1 dwelling units per 2 acres.

Section 4.07 Permitted Uses – The following uses are permitted within the AR District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Agricultural Uses</i> Agriculture, Home Agriculture, Primary Agricultural, Services Commercial Greenhouse Farm Stand Residential Kennel Retail Nursery Wholesale Nursery	<i>Residential Uses</i> Child-Care Facility (Owner-Occupied) Dwelling, Manufactured Home Dwelling, Single Family Detached Residential Facility for the developmentally disabled (B) <i>Park Recreation Uses</i> Trails, Walking and Biking
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Section 4.08 Conditional Uses– The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance.

<i>Agricultural Uses</i> Farmer's Market Confined Feed Operations Commercial Kennel Mineral Extraction <i>Commercial Uses</i> Home Occupation Golf Course/Driving Range Lodge or Private Club <i>Communications/Utilities Uses</i> Public Well/Pumping Station Telecommunication Facility Utility Substation	<i>Industrial Uses</i> Specialty Trade Contractors Office/Workshop Wood Products Manufacturing <i>Institutional Uses</i> Cemetery Church or House of Worship Government Office/Building Police/Fire Station School, Public/Private <i>Residential Uses</i> Bed-Breakfast/ Tourist Home Boarding House Residential Facility for the developmentally disabled (A)
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Section 4.09 Agricultural-Residential District (AR) Development Standards

Agricultural/Residential District (AR) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	87,120 Square Feet (2 Acres)
Minimum Lot Width	100 Feet
Minimum Lot Frontage	100 Feet
Primary Structure Height Restriction	35 Feet
Accessory Structure Height Restriction	18 Feet
Water	Requires connection to public water
Sanitary Sewer	May use either septic or sanitary sewer system
Primary Structure Front Yard Setback	60 Feet
Primary and Accessory Structure Side Yard Setback	10 Feet
Primary Structure Rear Yard Setback	20 Feet
Accessory Structure Rear Yard Setback	10 Feet
Maximum Primary Structure(s) per Lot	1
Minimum Ground Floor Area	950 square feet (Amended 5)
Maximum Lot Coverage Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	35 percent

Section 4.10 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Agricultural Residential (AR) District. Refer to these development and performance standards for requirements that apply within the Agricultural Residential (AR) District.

Agricultural Residential (AR) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.04, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	5.12
Landscaping	
Loading	
Manufactured Housing	
Parking	5.17, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.28
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.37,
Temporary Uses	5.38

Section 4.11 Rural Residential (RR)

District Intent: The Rural Residential (RR) district is intended to provide an additional residential land use category for areas with both residential and agricultural areas. The provisions that regulate this land use should allow for residential uses that are compatibility with agricultural operations and natural resources.

Floyd County's Plan Commission and Board of Zoning Appeals should strive to establish this zone as a transitional district between agricultural /residential and higher density residential, commercial and industrial districts. The Plan Commission and the Board of Zoning Appeals should strive to promote an average density of 1.0 dwelling units per .85 acres.

Section 4.12 Permitted Uses – The following uses are permitted within the Rural Residential (RR) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Agricultural Uses</i> Agriculture, Home Agriculture, Primary Agricultural, Services Farm Stand Residential Kennel	<i>Residential Uses</i> Child-Day Care (Owner-Occupied) Dwelling, Manufactured Home Dwelling, Single Family Detached Residential Facility for the developmentally disabled (B) <i>Park Recreation Uses</i> Trails, Walking and Biking
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Section 4.13 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the Rural Residential (RR) District.

<i>Agricultural Uses</i> Commercial Kennel <i>Residential Uses</i> Bed-Breakfast/ Tourist Home Residential Facility for the developmentally disabled (A) <i>Commercial Uses</i> Home Occupation Golf Course/Driving Range <i>Communications/Utilities Uses</i> Public Well/Pumping Station Telecommunication Facility Utility Substation	<i>Industrial Uses</i> Specialty Trade Contractors Office/Workshop <i>Institutional/Public/Recreational Uses</i> Cemetery Church or House of Worship Government Office/Building Police/Fire Station School, Public/Private
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Section 4.14 Rural Residential District (RR) Development Standards

Rural Residential District (RR) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	37,000 Square Feet
Minimum Lot Width	100 Feet
Minimum Lot Frontage	100 Feet
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Requires connection to public water
Sanitary Sewer	May use either septic or sanitary sewer system
Primary Structure Front Yard Setback	60 Feet – Arterial, Collector or Local Street 40 Feet – Subdivision Street
Primary and Accessory Structure Side Yard(s) Setback	10 Feet each side
Primary Structure Rear Yard Setback	20 Feet
Accessory Structure Rear Yard Setback	10 Feet
Maximum Primary Structure(s) per Lot	1
Minimum Ground Floor Area	950 Square feet (Amended 5)
Maximum Lot Coverage Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	35 Percent

Section 4.15 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Rural Residential (RR) District. Refer to these development and performance standards for requirements that apply within the Rural Residential (RR) District.

Rural Residential (RR) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.04, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	5.12
Landscaping	
Loading	
Manufactured Housing	
Parking	5.17, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.28,
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.37
Temporary Uses	5.38

Section 4.16 Residential Suburban District (RS)

District Intent: The Residential Suburban (RS) district is intended to provide for the development of medium size single family detached homes on medium sized lots. The provisions that regulate this land use district should provide for the development of medium density residential neighborhood.

Floyd County Plan Commission and Board of Zoning Appeals should strive to integrate this type of neighborhood with higher density developments and neighborhood-serving commercial facilities. This district should be protected from conflicting land uses and may be located in proximity to rural residential (RR) district in a way that does not interfere with agricultural practices. The Plan Commission and the Board of Zoning Appeals should strive to promote an average net density of 3.0 dwelling units per acre community wide.

Section 4.17 Permitted Uses – The following uses are permitted within the Residential Suburban (RS) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Agricultural Uses</i> Farm Stand Agricultural, Home <i>Residential Uses</i> Child Care Facility (Owner-occupied) Dwelling, Manufactured Home Dwelling, Single Family Detached Residential Facility for the developmentally disabled (B)	<i>Park Recreation Uses</i> Trails, Walking and Biking
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Section 4.18 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the Residential Suburban (RS) District.

<i>Residential Uses</i> Residential Facility for the developmentally disabled (A) <i>Commercial Uses</i> Home Occupation	<i>Communications/Utilities Uses</i> Public Well/Pumping Station Telecommunication Facility Utility Substation Sanitary Sewage Treatment Plant <i>Institutional Uses</i> Cemetery Church or House of Worship Government Office/Building Police/Fire Station Schools, Public/Private
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Section 4.19 Residential Suburban District (RS) Development Standards:

Residential Suburban (RS) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	12,000 Square Feet
Minimum Lot Width (See 5.02 for additional standards)	80 Feet – Subdivision Street
Minimum Lot Frontage (See 5.02 for additional standards)	80 Feet - Subdivision Street
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Requires connection to public water
Sanitary Sewer	May requires connected to sanitary sewer system (<i>Amended 1</i>)
Primary Structure Front Yard Setback	60 Feet – Arterial, Collector, Local Roads 25 Feet – Subdivision Street
Primary and Accessory Structure Side Yard Setback	8 Feet
Primary Structure Rear Yard Setback	20 Feet
Accessory Structure Rear Yard Setback	10 Feet
Maximum Primary Structure(s) per Lot	1
Minimum Ground Floor Area	950 Square feet (<i>Amended 5</i>)
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	50 Percent

Section 4.20 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Residential Suburban (RS) District. Refer to these development and performance standards for requirements that apply within the Residential Suburban (RS) District.

Residential Suburban (RS) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03,
Accessory Uses/Structures	5.04, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	5.12
Landscaping	
Loading	
Manufactured Housing	
Parking	5.18, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.28
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.36,
Temporary Uses	5.38

Section 4.21 Residential Urban District (RU)

District Intent: The Residential Urban (RU) district is intended to provide for the development of medium single family and attached two or multi- family homes on small lots. The provisions that regulate this land use district should provide for the development of high density residential neighborhoods.

Floyd County Plan Commission and Board of Zoning Appeals should strive to integrate this type of neighborhood with medium and higher density developments and neighborhood-serving commercial facilities. This district should be protected from conflicting land uses and be located in proximity to Residential Suburban (RS) district. The Plan Commission and the Board of Zoning Appeals should strive to promote an average net density of 6.0 dwelling units per acre community wide.

Section 4.22 Permitted Uses – The following uses are permitted within the Residential Urban (RU) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Agricultural Uses</i> Agricultural, Home <i>Residential Uses</i> Child-Care Facility (Owner-Occupied) Dwelling, Single Family Attached Dwelling, Townhouse Dwelling, Two-Family Residential Facility for the developmentally disabled (B)	<i>Park Recreation Uses</i> Trails, Walking and Biking
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Section 4.23 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the Residential Urban (RU) District.

<i>Residential Uses</i> Residential Facility for the developmentally disabled (A) <i>Commercial Uses</i> Home Occupation	<i>Communications/Utilities Uses</i> Public Well/Pumping House Telecommunication Facilities Utility Substation <i>Institutional Uses</i> Cemetery Church or House of Worship Government Building/Office Police/Fire Station School, Public/Private
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Section 4.24 Residential Urban District (RU) Development Standards

Residential Urban District (RU) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	6,000 Square Feet – Single Family 12,000 Square Feet – Two-Family
Minimum Lot Width (See 5.02 for additional standards)	50 Feet – (Single Family) Subdivision Street 80 Feet – (Two-Family) Subdivision Street
Minimum Lot Frontage (See 5.02 for additional standards)	50 Feet – (Single Family) Subdivision Street 80 Feet – (Two-Family) Subdivision Street
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Required connection to public water
Sanitary Sewer	Required connection to sanitary sewer system
Primary Structure Front Yard Setback	35 Feet – Arterial, Collector or Local Street 25 Feet – Subdivision Street
Primary and Accessory Structure Side Yard Setback	10 feet one side– Single Family; 10 Feet each side – Two-Family
Primary and Accessory Structure Rear Yard Setback	10 Feet
Maximum Primary Structure(s) per Lot	1
Minimum Ground Floor Area	950 Square feet (Amended 5)
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	65 Percent

Section 4.25– Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Residential Urban (RU) District. Refer to these development and performance standards for requirements that apply within the Residential Urban (RU) District.

Residential Urban (RU) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03,
Accessory Uses/Structures	5.05, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	5.12
Landscaping	
Loading	
Manufactured Housing	
Parking	5.18, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.28
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.36
Temporary Uses	5.38

Section 4.26 Multi-Family Residential District (MF)

The Multi-Family Residential (MF) District is intended to provide for multi-family residential developments. The provisions that regulate this land use should promote the adequate provision for open space, living areas, and vehicle parking.

Floyd County Plan Commission and Board of Zoning Appeals should strive to integrate this district with Residential Urban (RU) type developments and neighborhood-serving commercial facilities. It should be located in areas that have adequate infrastructure and public services to provide for the development needs. This district should be protected from conflicting land uses. The Plan Commission and the Board of Zoning Appeals should strive to promote a density of 8.0 dwelling units per acre community wide.

Section 4.27 Permitted Uses – The following uses are permitted within the Multi-Family (MF) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Residential Uses</i> Child Care Facility (Owner-Occupied) Dwelling, Multi-Family Dwelling, Townhouse Dwelling, Two-Family Residential Facility for the development disabled (B)	<i>Park Recreation Uses</i> Trails, Walking and Biking
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Section 4.28 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the Multi-Family (MF) District.

<i>Residential Uses</i> Assisted Living Facilities Child Care Institution Dwelling, Single Family Attached Residential Facility for the development disabled (A) <i>Commercial Uses</i> Home Occupation	<i>Communications/Utilities</i> Public Well/Pumping House Telecommunication Facilities Utility Substation <i>Institutional/Public/Recreational Use</i> Church and Houses of Worship Government Office/Building Police/Fire Station Schools, Public/Private
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Section 4.29 Multi-Family District (MF) Development Standards

Multi-Family District (MF) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	30,000 Square Feet
Minimum Lot Area per Unit	5,445 Square Feet
Maximum Lot Area per Unit	8,000 Square Feet
Minimum Lot Frontage	100 Feet
Minimum Lot Width	100 Feet
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Required connection to public water
Sanitary Sewer	Required connection to sanitary system
Primary Structure Front Yard Setback	60 Feet – Arterial, Collector or Local Street 40 Feet – Subdivision Street
Primary and Accessory Structure Side Yard Setback	20 Feet
Primary and Accessory Structure Rear Yard Setback	25 Feet
Maximum Primary Structure(s) per Lot	<i>n/a (Amended 1)</i>
Minimum Living Area per unit	800 Square Feet
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	65 Percent

Section 4.30 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Multi-Family (MF) District. Refer to these development and performance standards for requirements that apply within the Multi-Family (MF) District.

Multi-Family (MF) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.05, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	5.12
Landscaping	5.13
Loading	
Manufactured Housing	
Parking	5.19, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.28,
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.36
Temporary Uses	5.38

Section 4.31-4.35 - Manufactured Home Park District (MH) (Deleted – Amendment 5)

Section 4.36 Neighborhood Commercial District (NC)

District Intent: The Neighborhood Commercial (NC) district is intended to provide a land use category for small scale commercial uses that provide products and services to local neighborhoods. The provisions that regulate this land use should promote appropriate commercial uses that are clearly non-conflicting with the residential areas of Floyd County. Floyd County's Plan Commission and Board of Zoning Appeals should strive to use this district selectively, in areas where small scale commercial centers are appropriate to service neighborhood commercial needs. The Plan Commission and Board of Zoning Appeals should also strive to exclude businesses from Neighborhood Commercial (NC) district that have an adverse effect on existing or future adjacent neighborhoods. Retail Small Scale uses are defined as having 5,000 square feet of floor space or less.

Section 4.37 Permitted Uses – The following uses are permitted within the Neighborhood Commercial (NC) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Commercial Uses</i> All Uses in Commercial: Personal Services* All Uses in Commercial: Retail Small-Scale Uses* Accounting /Tax Services Advertising Services Architectural Services Attorney/Legal Services Bank/Credit Unions Computer Systems Design and Service Dentist Office * <i>See Appendix A for listing of permitted uses</i>	Health Care Practitioners Office Insurance Agency Office Investment Firm Professional Consulting Office Photography Studio Physicians Office Real Estate Office Service Organization Travel Agency <i>Park Recreation Uses</i> Trails, Walking and Biking
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Section 4.38 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the Neighborhood Commercial (NC) District.

<i>Agricultural Uses</i> Farmer's Market Retail Nursery <i>Commercial Uses</i> Bar/Tavern Convenience Store with Gas Pumps Dance/Aerobic/Gymnastics Studio Delicatessen Grocery Ice Cream Shop Lodge or Private Club Martial Arts Studio Restaurant, Drive-Thru Restaurant, Full Service Restaurant, Outdoors	Retail, Bakery Banquet Hall <i>Institutional/Public/Recreational Use</i> Church or House of Worship Government Building and Office Library Police/Fire Station Post Office Schools, Public/Private Trade or Business School <i>Communications/Utilities</i> Public Well/Pumping House Telecommunication Facilities Utility Substation
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Section 4.39 Neighborhood Commercial (NC) Development Standards

Neighborhood Commercial (NC) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	22,000 Square Feet
Minimum Lot Width	150 Feet
Minimum Lot Frontage	150 Feet
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Require connection to public water
Sanitary Sewer	Require connection to sanitary sewer system
Primary Structure Front Yard Setback	30 Feet
Primary and Accessory Structure Side Yard Setback	20 Feet
Primary and Accessory Structure Rear Yard Setback	25 Feet
Maximum Primary Structure(s) per Lot	1
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	70 percent

Section 4.40– Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Neighborhood Commercial (NC) District. Refer to these development and performance standards for requirements that apply within the Neighborhood Commercial (NC) District.

Neighborhood Commercial (NC) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.06, 5.07, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	
Landscaping	5.13
Loading	5.14
Manufactured Housing	
Parking	5.20, 5.21, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.27
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.36
Temporary Uses	5.38, 5.39

Section 4.41 General Commercial District (GC)

District Intent: The General Commercial (GC) district is intended to provide a land use category for most general business uses. The provision that regulate this land use district should not overly restrict normal business practices. This district can be used adjacent to all other commercial and industrial districts. It can also be used adjacent to the multi-family residential districts. Buffer yards should be fully implemented

Floyd County's Plan Commission and Board of Zoning Appeals should strive to use this district to encourage strong and stable area for general commerce. The Plan Commission and Board of Zoning Appeals should encourage development in clusters which share resources and minimize the cost of public utilities and services. The Plan Commission and Board of Zoning Appeals should also strive to minimize lighting, parking lots, fronting the major streets, and traffic conflicts in the General Commercial (GC) district.

Section 4.42 Permitted Uses – The following uses are permitted within the General Commercial (GC) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Commercial Uses</i> All Uses in Commercial: Food Sales/Services* All Uses in Commercial: Personal Services* All Uses in Commercial: Professional Office* All Uses in Commercial: Retail Large Scale Uses* All Uses in Commercial: Retail Small Scale Uses*	<i>Commercial Uses</i> Banquet Hall Dance/Aerobic/Gymnastic Studio Miniature Golf Lodge/Private Club Skating Rink <i>Park Recreation Uses</i> Trails, Walking and Biking
* See Appendix A for listing of permitted uses	

Section 4.43 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the General Commercial (GC) District.

<i>Residential Uses</i> Assisted Living Facilities Child Care Institution <i>Commercial Uses</i> Automotive Repair and Services Convenient Store with Gas Pumps Bar/Tavern Billiards/Arcade Bowling Alley Hotel/Motel Lodging Indoor Theater Oil Change Restaurant, Outdoors	<i>Institutional Use</i> Church or House of Worship Government Building and Office Hospital Library Museum Police/Fire Station Post Office School, Public/Private School, University/College Trade or Business School <i>Communications/Utilities</i> Public Well/Pumping House Telecommunication Facilities Utility Substation
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Section 4.44 General Commercial (GC) Development and Performance Standards

General Commercial District (GC) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	43,560 Square feet (1 acre)
Minimum Lot Width	200 Feet
Minimum Lot Frontage	200 Feet
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Required connection to public water
Sanitary Sewer	Required connection to sanitary sewer system
Primary Structure Front Yard Setback	40 Feet
Primary and Accessory Structure Side Yard Setback	20 Feet
Primary and Accessory Structure Rear Yard Setback	30 Feet
Maximum Primary Structure(s) per Lot	1
Minimum Main Floor Area	2000 Square Feet (<i>Amended 1</i>)
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	70 Percent

Section 4.45 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the General Commercial (GC) District. Refer to these development and performance standards for requirements that apply within the General Commercial (GC) District.

General Commercial (GC) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.06, 5.07, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	
Landscaping	5.13
Loading	5.14
Manufactured Housing	
Parking	5.20, 5.21, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.27
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.37
Temporary Uses	5.38, 5.39

Section 4.46 Highway Service District (HS)

District Intent: The Highway Service (HS) district is intended to provide a land use category for commercial uses that are appropriate for location along highways. The provisions that regulate this land use district should make the district compatible with adjacent agriculture and residential districts. The district should be used at areas near major state highways and at Interstate interchanges.

Floyd County's Plan Commission and Board of Zoning Appeals should strive to provide for highway oriented businesses and services, while minimizing light pollution, large parking lots along major roadways, hazardous traffic patterns, traffic conflicts, and excessive signs in the Highway Service (HS) district. The use of access roads/frontage roads should be required for all commercial uses in this district. Further, road cuts onto arterial or collector roads should be restricted.

Section 4.47 Permitted Uses – The following uses are permitted within the Highway Service (HS) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Commercial Uses</i> All Uses in Commercial: Adult Businesses* Health/Spa (Non-Adult) Media Store (Non-Adult) All Commercial: Automotive Sales/Services Uses* All Uses in Commercial: Food Sales/Services* Ambulatory Care Facilities Bank/Credit Union Barber/Beauty Shop Dry Cleaners Pharmacy Tanning Salon	<i>Commercial Uses</i> * <i>See Appendix A for listing of permitted uses</i> Health and Fitness Center All Professional/Office Uses* Banquet Hall <i>Park Recreation Uses</i> Trails, Walking and Biking
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Section 4.48 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the Highway Service (HS) District.

<i>Agricultural Uses</i> Retail Nursery <i>Commercial Uses</i> Billiards/Arcade Child Care Center (Day Care) Convenient Stores with Gas Pumps Funeral Home or Mortuary Garden Shop Indoor Theater Restaurant, Outdoors Retail Nursery Travel Center <i>Industrial Uses</i> Mini-Storage Facilities	<i>Institutional/Public/Recreational Use</i> Church or House of Worship Government Office/Building Police/Fire Station Post Office <i>Utilities</i> Public Well/Pumping House Telecommunication Facilities Utility Substation
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Section 4.49 Highway Service District (HS) Development Standards

Highway Service District (HS) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width	150 Feet
Minimum Lot Frontage	150 Feet
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Required connection to public water
Sanitary Sewer	Required connection to sanitary sewer system
Primary Structure Front Yard Setback	40 Feet
Primary and Accessory Structure Side Yard Setback	20 Feet
Primary and Accessory Structure Rear Yard Setback	30 Feet
Maximum Primary Structure(s) per Lot	1
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	70 Percent

Section 4.50 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Highway Service (HS) District. Refer to these development and performance standards for requirements that apply within the Highway Service (HS) District.

Highway Service (HS) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.06, 5.07, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	
Landscaping	5.13
Loading	5.14
Manufactured Housing	
Parking	5.20, 5.21, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.27
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.37
Temporary Uses	5.38, 5.39

Section 4.51 Office-Business District (OB)

District Intent: The Office-Business (OB) district is intended to provide a land use category for assembly, research and development operations, warehousing, and other light industrial operations. The provisions that regulate this land use district should make the district compatible with the General Commercial (GC), Highway Service (HS) and Agricultural-Residential (AR) districts. This district should be used in combination with the Highway Service (HS) district in areas with convenient access to major transportation routes.

Floyd County's Plan Commission and Board of Zoning Appeals should strive to provide for light industrial operations while minimizing light pollution, large parking lots along major roadways, hazardous traffic patterns and traffic conflicts in the Office-Business (OB) district.

Section 4.52 Permitted Uses – The following uses are permitted within the Office Business (OB) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Agricultural Uses</i> Wholesale Nursery <i>Commercial Uses</i> Accounting/ Tax Services Advertising Services Architectural/Engineering Services Attorney/ Legal Services Bank/Credit Unions Computer System Design/Services Educational Support Services Employment Services Investment Services Professional Consulting Services Real Estate Services Service Organizations	<i>Industrial Uses</i> Computer and Electronic Products Medical and Diagnostic Laboratories Medical Equipment and Supplies Mini-storage Warehouses Specialty Trades Trade Shop Warehousing and Storage <i>Park Recreation Uses</i> Trails, Walking and Biking
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Section 4.53 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the Office Business (OB) District.

<i>Commercial Uses</i> Banquet Hall Dance/Aerobic/Gymnastics Studio Health/Fitness Center Martial Arts Studio <i>Institutional/Public/Recreational Use</i> Church or House of Worship Government Office/Building Police/Fire Station	<i>Industrial Uses</i> Research/Business Incubator Center Scientific Research and Development Services <i>Communications/Utilities</i> Public Well/Pumping House Telecommunication Facilities Utility Substation
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Section 4.54 Office Business District (OB) Development Standards

Office Business District (OB) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	43,560 Square Feet
Minimum Lot Width	150 Feet
Minimum Lot Frontage	150 Feet
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Required connection to public water
Sanitary Sewer	Required connection to municipal sanitary sewer system
Primary Structure Front Yard Setback	40 Feet
Primary and Accessory Structure Side Yard Setback	25 Feet
Primary and Accessory Structure Rear Yard Setback	30 Feet
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	75 Percent

Section 4.55 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Office Business (OB) District. Refer to these development and performance standards for requirements that apply within the Office Business (OB) District.

Office-Business (OB) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.06, 5.07, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	
Landscaping	5.13
Loading	5.14
Manufactured Housing	
Parking	5.20, 5.21, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.27
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.37
Temporary Uses	5.38, 5.39

Section 4.56 General Industrial District (GI)

District Intent: The General Industrial (GI) district is intended to provide a land use category for a medium intensity industrial operations and uses. The provisions that regulate this land use district should make the district compatible with the General Commercial (GC), Highway Service (HS) and Office-Business (OB) districts. This district should be used in combination with the (OB) district in areas with convenient access to major transportation routes.

Floyd County's Plan Commission and Board of Zoning Appeals should strive to provide for industrial operations while minimizing light pollution, large parking lots along major roadways, hazardous traffic patterns and traffic conflicts in the General Industrial (GI) district. Buffering between existing lower intensity uses such as residential and agricultural uses must be appropriate to mitigate effect industrial use will have on these land uses.

Section 4.57 Permitted Uses – The following uses are permitted within the General Industrial (GI) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

<i>Agricultural Uses</i> Wholesale Nursery <i>Commercial Uses</i> All Uses in Commercial: Adult Businesses* <i>Industrial Uses</i> Boats, Motorcycles, Recreational Vehicles Sales and Services, Clay Building Material and Refractory Manufacturing Computer and Electronic Products Furniture and Related Products	Medical and Diagnostic Laboratories Medical Equipment and Supplies Research and Business Incubator Center Trade Shop Warehousing and Storage Wood Products Manufacturing
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Section 4.58 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the General Industrial (GI) District.

<i>Industrial Uses</i> Bottled Gas Storage and Distribution Sanitary Landfill Scientific Research and Development Services Junk Yard	<i>Communications/Utilities</i> Public Well/Pumping House Telecommunication Facilities Utility Substation
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Section 4.59 General Industrial District (GI) Development Standards

General Industrial (GI) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	3 Acres
Minimum Lot Width	250 Feet
Minimum Lot Frontage	250 Feet
Primary Structure Height	35 Feet
Accessory Structure Height	18 Feet
Water	Required connection to public water
Sanitary Sewer	Required connection to municipal sanitary sewer system
Primary Structure Front Yard Setback	50 Feet
Primary and Accessory Structure Side Yard Setback	40 Feet
Primary and Accessory Structure Rear Yard Setback	40 Feet
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	75 Percent

Section 4.60 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the General Industrial (GI) District. Refer to these development and performance standards for requirements that apply within the General Industrial (GI) District.

General Industrial (GI) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.06, 5.07, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	
Landscaping	5.13
Loading	5.14
Manufactured Housing	
Parking	5.20, 5.21, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.27
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35, 5.37
Temporary Uses	5.38, 5.39

Section 4.61 Park and Recreation (PR)

District Intent: The Park and Recreation (PR) district is intended to provide for the development of active and passive recreation opportunities within Floyd County. This district incorporates both active recreation facilities and passive or open space. The district should be integrated with the residential districts, school facilities, and natural features/resources. Floyd County's Plan Commission and Board of Zoning Appeals should strive to promote connectivity of these areas to potentially form a community-wide system, proximity to residential neighborhoods, and incorporate natural features of the county.

Section 4.62 Permitted Uses – The following uses are permitted within the Park Recreation (PR) District as by right. No building, structure, or premises shall be used, arranged or designed to be used except for the below listed uses.

Permitted Uses <i>Park and Recreation</i> Athletic Fields/Courts Shelter Houses Trails, Walking/Bicycle	
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Section 4.63 Conditional Uses – The following uses are permitted upon conditional approval of the Board of Zoning Appeals in accordance with Article 15 of this Ordinance for the Park Recreation (PR) District.

<i>Park and Recreation</i> Campground (Public) Community/Recreation Center Community Swim Facility Golf Course/Driving Range	<i>Communications/Utilities</i> Public Well/Pumping House Telecommunication Facilities Utility Substation
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Section 4.64 Park-Recreation (PR) Development and Performance Standards

Park-Recreation (PR) Development Standards	
Type of Standard	Development Standards
Minimum Lot Area	5 Acres
Minimum Lot Width	100 Feet
Minimum Lot Frontage	100 Feet
Primary Structure Height	35 Feet
Accessory Structure Height	25 Feet
Water	Required connection to public water
Sanitary Sewer	May use either septic or sanitary sewer system
Primary Structure Front Yard Setback	50 Feet
Primary and Accessory Structure Side Yard Setback	50 Feet
Primary and Accessory Structure Rear Yard Setback	50 Feet
Maximum Lot Coverage (Square footage of all primary structures, accessory structures and impervious surface shall not exceed:)	25 Percent

Section 4.65 – Additional Development and Performance Standards

The following development and performance standards are applicable to the uses within the Park Recreation (PR) District. Refer to these development and performance standards for requirements that apply within the Park Recreation (PR) District.

Park Recreation (PR) Additional Development and Performance Standards	
Type of Standard	Development Standards
Lot/Yard/ Height	5.02, 5.03
Accessory Uses/Structures	5.06, 5.08
Buffer Yards	5.09
Fences and Walls	5.10
Environmental	5.11
Home Occupation	
Landscaping	
Loading	
Manufactured Housing	
Parking	5.20, 5.21, 5.22
Performance	5.23
Sight Visibility	5.24
Signs	5.25, 5.26, 5.27,
Telecommunication Facilities	5.30, 5.31, 5.32, 5.33, 5.34, 5.35,
Temporary Uses	5.38

Section 5.01 General Development Standards that Apply

To determine which development standards apply to the subject zoning district, one needs to refer to the General Development Standards Table which is part of the subject zoning district description. The sections identified for each zoning district can be found in the sections below.

Section 5.02 Lot and Yard Standards

This Lot/Yard Standards sections applies to the following districts:

AR RR RS RU MF MH NC GC HS OB GI PR

- A. All existing lots in conflict with the lot/yard regulations at the effective date of this Ordinance shall be considered Legal Non-Conforming Lots.
- B. The lot/yard standards permitted shall be as noted in the zoning description for each Zoning District found in Section 4 of this Ordinance. No building or structure shall be erected, altered, or enlarged unless such alteration, enlargement, or reconstruction conforms to the lot/yard regulations of the district except where other wised noted in this Ordinance.
- C. No portion of any structure or material for sale stored outdoors is allowed to be located within the required setbacks. Parking spaces, interior drives, other vehicle use areas and sidewalks shall be permitted within the required setbacks at normal grade level subject to the requirements of this Ordinance.
- D. In the case of a through or corner lot, any property line abutting a street shall be considered a front property line and the setback from that line shall conform to the front yard setback regulations of the base zone district. The Building Commissioner will have discretion to determine the side and rear setback lines for a corner or through lot.
- E. All single family residential and multi-family residential lots fronting on an arterial, collector, or local road shall have a minimum lot width and lot frontage of 100 feet.
- F. All single family residential lots in the Residential Suburban (RS) not connected to a sanitary sewer system shall meet the development standard requirements set forth in the Rural Residential (RR) District.
- G. All single family residential lots which use septic systems shall be required to have adequate space within said lot for two lateral fields.

Section 5.03 Height Standards

This Height Standard section applies to the following districts:

AR RR RS RU MF MH NC GC HS OB GI PR

- A. The maximum height permitted shall be as noted in the zoning description for each Zoning District found in Article 4 of this Ordinance.
- B. No structure may be erected or changed so as to make its height greater than specified in the applicable zoning district. Exceptions to the height standards are the following:

1. The following structures may exceed the permitted height regulation by twofold (2X), but shall not exceed a total height from grade level of 70 feet: **(amended 5)**
 - a. Church Steeples
 - b. Water Towers, and
 - c. Public utility transmission towers
 - d. Athletic field lighting standards
2. The height of telecommunication towers and antenna shall meet the requirements of the Telecommunication standards of this Ordinance.

Section 5.04 Accessory Use/Structure Standards

This Accessory Use/Structures standards section applies to the following districts.

AR RR RS

- A. Accessory structure(s) shall comply with all development standards for subject zoning district.
- B. Accessory structure(s) must relate to the primary structure and its uses
- C. Accessory structure(s) shall be clearly subordinate in height, area, bulk extent, and purpose to the primary structure excepting barns.
- D. No accessory structure(s) shall be placed in any required setbacks.
- E. All accessory structure(s) are subject to all easements.
- F. No mobile home or manufactured home may be used as an accessory structure in any district.
- G. Accessory structure(s) may not encroach on any platted easement unless the owner of the easement gives written consent.
- H. Accessory structure(s) deemed as incidental include swing sets, mailboxes, lamp posts, doghouses, tree houses, and other such incidentals except as stated in this Ordinance and are permitted in any front, side or rear yard. No incidental structure(s) shall be 120 square feet or larger.
- I. Accessory structure(s) shall be located to the rear or side of the primary structure unless otherwise permitted in this ordinance. Primary structures being located on a parcel with an existing legal conforming accessory structure(s) may be located to the rear of the existing legal conforming accessory structures. **(amended 5)**
- J. The following accessory structure(s) are permitted, but must abide by all applicable standards and have all applicable and appropriate permits.
 1. Bath Houses or Saunas
 2. Decks
 3. Garages
 4. Gazebos
 5. Private Greenhouses

6. Hot Tubs
7. Mini Barns
8. Storage Building
9. Pole Barn
10. Agricultural Building
11. Sheds
12. Boat Docks
13. Sports Courts
14. Carport
15. Swimming Pool (Swimming Pools must abide by all applicable Indiana Code statutes)

- K. All accessory structure(s) shall be permitted only in association with, and on the same lot as the primary use or structure. Accessory uses and structures shall not be permitted to be located, placed, or established on any lot prior to the establishment of a primary use or structure excepting barns unless otherwise permitted by this Ordinance.

Section 5.05 Accessory Use/Structure Standards

This Accessory Use/Structures Standards section applies to the following districts.

RU MF MH

- A. Accessory structure(s) shall comply with all development standards for subject zoning district.
- B. Accessory structure(s) must relate to the primary structure and its uses.
- C. No accessory structure(s) shall be placed in any required setbacks.
- D. All accessory structure(s) are subject to all easements.
- E. Accessory structure(s) may not encroach on any platted easement unless the owner of the easement gives written consent.
- F. Accessory structure(s) are not deemed to include swing sets, mailboxes, lamp posts, doghouses, tree houses, and other such incidentals except as stated in this Ordinance and are permitted in any front, side or rear yard.
- G. Accessory structure(s) may only be located to the rear or side of the primary structure.
- H. The following Accessory Structure(s) are permitted, but must abide by all applicable standards and have all applicable and appropriate permits:
 1. Bath Houses or Saunas
 2. Decks
 3. Garages
 4. Gazebos
 5. Private Greenhouses
 6. Hot Tubs
 7. Storage Building

8. Sheds
 9. Sports Courts
 10. Carport
 11. Swimming Pool (Swimming Pools must abide by all applicable Indiana Code statutes)
- I. An accessory structure(s) can not exceed 1000 square feet or 100 percent of the square footage of the primary structure, whichever is less.

Section 5.06 Accessory Use/Structure Standards

This Accessory Use/Structures Standards section applies to the following districts.

NC GC HS OB GI PR

- A. Accessory structure(s) shall comply with all development Standards for subject zoning district.
- B. Accessory structure(s) must relate to the primary structure and its uses.
- C. All accessory structure(s) are subject to all easements.
- D. Accessory structure(s) may not encroach on any platted easement unless the owner of the easement gives written consent.
- E. No accessory structure(s) shall be placed in any required setbacks.
- F. Accessory structure(s) may only be located to the rear or side of the primary structure.
- G. The following accessory structure(s) are permitted, but must abide by all applicable standards and have all applicable and appropriate permits:
 1. Decks
 2. Gazebos
 3. Storage Buildings
 4. Carport/Garage
 5. Sheds
 6. Dumpsters
 7. Restroom Facilities
- H. Accessory structure(s) are not allowed on a lot prior to a primary structure being constructed.
- I. All dumpsters, compactors, and all other trash receptacles must be screened on all sides by a fence, gate or wall. The material used for the screen must be made of the same material as the primary structure. Glass or similar translucent materials shall not be used. The height of the enclosure must be at least 5 feet and/or block the view of the dumpster, compactor or similar container.
- J. An accessory structure(s) can not exceed 1500 square feet or 100 percent of the square footage of the primary structure, whichever is less.

Section 5.07 Accessory Use/Structure Standards

This Accessory Use/Standards section applies to the following district

NC GC HS OB GI

- A. Outdoor storage shall be permitted as an accessory use but shall be limited as follows:
 - 1. NC: outdoor storage shall be limited to seasonal sales of finished products
 - 2. GC: outdoor storage shall be limited to seasonal sales of finished products
 - 3. HS: outdoor storage shall be limited to seasonal sales of finished products
 - 4. Outdoor storage of vehicles being stored at auto repair facilities and junk yards shall be screened using an opaque fencing or a wall structure that meets all fencing and wall requirements as stated in this Ordinance.
- B. In OB, Office-Business; and GI, General Industrial districts outdoor storage shall be limited as follows:
 - 1. All outdoor storage must be screened using an opaque fencing or wall structure.
 - 2. All outdoor storage screens shall meet all fence and wall structures set forth and stated in this Ordinance.
 - 3. OB – outdoor storage shall be limited to finished products; and
 - 4. GI – outdoor storage shall be limited to finished products and materials used in production shall be permitted.
 - 5. Outdoor storage of vehicles being stored at auto repair facilities and junk yards shall be screened from adjacent properties and public roadways using an opaque fencing or a wall structure that meets all fencing and wall requirements as stated in this Ordinance.

Section 5.08 Accessory Use/Structure Standards

This Accessory Use/Standards section applies to the following district

AR RR RS RU MF MH NC GC HS OB GI PR

- A. All receptacle used for United States Postal Service mail services shall follow all applicable federal regulations and standards as set by the United States Postal Service.
- B. All receptacle used for United States Postal Service mail services shall be a minimum of 2 feet from the end of pavement on a County maintained road. The measurement standard shall be 2 feet from the end of pavement to the intersection with the vertical plane of the front of the mail receptacle when closed.

Section 5.09 Buffer Yard Standards

This Buffer Yard Standards section applies to the following districts:

AR RR RS RU MF MH NC GC HS OB GI PR

The general purpose of a buffer yard is to soften the potential conflicts between potential uses in one zoning district and the potential uses in another adjacent district by using setbacks and landscaping. The potential degree of conflict or potential conflict between the two zoning districts determines the extent of the buffer yard requirement.

- A. The required buffer yards shall meet the following minimum requirements.
1. **Buffer yard type 1** shall include a minimum setback of 5 feet in addition to the yard setback otherwise required by this Ordinance for the subject property. In addition, 1 deciduous canopy tree for every 15 feet of contiguous boundary and/or a row of evergreen trees that are 6 foot in height when planted and no more than 12 feet apart shall be planted in the buffer yard within the contiguous boundary between the subject and adjoining properties. All trees shall be planted within 15 feet from the contiguous boundary.
 2. **Buffer yard type 2** shall include a minimum setback of 15 feet in addition to the yard setback otherwise required by this Ordinance. A 6 foot tall berm and/or a 8 foot tall wall/fence shall be placed parallel to the property line within 10 feet of the boundary between the subject and adjoining properties. In addition 1 deciduous canopy tree for every 15 feet of contiguous boundary and/or a row of evergreen trees at a height of 6 feet placed every 12 feet shall be planted on top of a berm in the buffer yard within the contiguous boundary between the subject and adjoining properties shall be planted. *(Amended 1)*
 3. All berms shall be measured on the subject property side at highest post-development finish grade at base of curb and/or pavement. The height of the berms must meet the required height for the entirety of the berms. No averaging regarding the height will be permitted.
 4. All fences shall be opaque and must be made of the same material as the primary structure located on the subject property.
- B. The following matrix determines the type of buffer yard which shall be installed by the subject development entirely on the subject property.

Table 5.09 – Buffer Yard

	Zoning District of Adjoining Property:											
Zoning District of Subject Property:	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
AR												
RR												
RS	1	1										1
RU	1	1	1									1
MF (<i>Amended 1</i>)	2	2	2	2								1
MH	2	2	2	2								1
NC	2	2	2									1
GC	2	2	2	2	1	1						2
HS	2	2	2	2	1	1						2
OB	2	2	2	2	1	1						2
GI	2	2	2	2	2	2	2	2	2	2		2
PR												

C. The following general buffer yard standards will apply to all buffer yards.

1. A buffer yard plan shall be submitted with the following application.
 1. A development plan application
 2. Subdivision application
 3. Improvement plan application.
2. The buffer yard plan shall include the following:
 1. Type of deciduous and/or evergreen trees to be used as buffer requirements.
 2. Layout of the buffer yard site including topography elevations.
 3. Identification of all existing trees to be used to meet buffering requirements.
3. The buffer yard standards only apply along the property lines where two conflicting zoning districts meet.
4. The developer or owner of the subject property is responsible for installing the buffer yard. The adjacent property owner shall not have to participate in installing the buffer yard.
5. No required buffer material (fence/wall) or required landscape material shall be placed within any easement, right-of-way, or septic field. Buffer yard material shall not interfere or impede drainage ways.
6. All required buffer yard areas shall be provided for the entirely on the subject property and shall be in addition to setbacks required by this Ordinance.

7. All required buffer yard trees shall be placed irregularly spaced and designed to provide the appearance of a natural landscape unless otherwise specified by this Ordinance. However, no 2 trees shall be placed within 5 feet of one another.
8. All deciduous trees must be at least 2 inches caliper measured by the American Nursery Institute standards at 6 inches above the root ball, and all needled evergreen must be at least 6 feet in height measured by American Nursery Institute standards from the bottom of the root ball when planted. A listing of trees that can not be used as buffer trees is available in the plan commission office.
9. All portions of the buffer yard not planted in trees, shrubs or other landscape materials shall be covered in grass or other ground covering vegetation.
10. Buffer yard plantings may be used to meet 50 percent of the any landscaping tree planting requirement. **(Amended 3)**
11. No parking requirements in this Ordinance may be used to satisfy all or part of any required buffer yard requirement.
12. No accessory structure(s) can be placed within the buffer yard.
13. No trees and/or planting shall be planted that are toxic to people or livestock.
14. All landscape materials must be properly maintained, and kept in a neat orderly appearance, free from all debris and refuse.
 - a. All unhealthy or dead plant material shall be replaced by the end of the next planting season
 - b. Landscape materials are intended to grow, spread and mature over time. Pruning, limbing-up, topping and other growth, inhibiting measures may only be used to ensure the public safety.
15. Trees, vegetation, irrigation systems, fences, walls and other landscape elements shall be considered elements of the project in the same manner as parking and other site details. The applicant and /or landowner, and their successors in interest are responsible for the regular maintenance of all landscaping elements so that they are kept in good condition. All landscaping must be maintained. All landscape structures such as fences and walls must be repaired or replaced periodically to maintain a structurally sound and aesthetic condition.
16. Any existing deciduous tree in the buffer yard over 6 inches in caliper at DBH counts as 3 new deciduous trees and any existing evergreen tree in the buffer yard over 10 feet tall counts as 2 new evergreen trees.
17. Any existing deciduous or evergreen tree(s) used to offset the buffer yard requirements must be marked, a buffer fence placed around them during construction to protect the tree.
18. Any existing deciduous or evergreen tree(s) used to offset the buffer yard requirement shall be regularly and properly maintained after development.

19. If any existing deciduous or evergreen tree(s) that are used to offset the buffer yard requirement dies, a replacement tree(s) meeting the planting standards in subsection 8. Three deciduous tree(s) shall be the replacement requirement if any existing deciduous tree counted towards the requirement stated in subsection 16 was met. Two evergreen tree(s) shall be replacement requirement if any existing evergreen tree counted towards the requirements set forth in subsection 16.

Section 5.10 Fences and Wall

This Fence and Wall Standards section applies to the following districts.

AR RR RS RU MF MH NC GC HS OB GI PR

A. All fences and walls must comply with the following regulations:

1. Are permitted up to the property line.
2. May not be greater than 4 feet in height in front yard excepting fences used for primary agricultural uses.
3. May not be greater than 8 feet in height in the side yard and rear yard.
4. May not be closer than 2 feet to any public right-of-way
5. May not be placed within the vision clearance triangle as defined in Section 5.24
6. May not incorporate barbed wire, security wire or sharpened top spikes with the exception of fences used for primary agricultural uses and/or industrial uses.

Section 5.11 Environmental Standards

This Environmental Standards Sections applies to all zoning districts within the jurisdiction of the Floyd County Plan Commission. The following standards pertain to environmental concerns in Floyd County. Some of the following standards refer to state regulations. This is not to imply that the County is enforcing state regulations; state regulations are referred to in order to make the affected property owners aware that they exist and need to be complied with in addition to local law.

AR RR RS RU MF MH NC GC HS OB GI PR

- A. Existing historic and natural resources which would add value to the development of the county such as trees, streams, vistas, historical landmarks(listed in the Indiana Department of Natural Resources, Indiana Historic Sites and Structural Inventory, Floyd County) and similar irreplaceable assets, when possible, should be preserved through harmonious and careful design. Land to be developed shall be designed and improved as far as practical in conformity to existing topography in order to minimize storm water run-off, and conserve the natural cover and soil.
- B. All development shall meet the flood hazard requirements set forth in this Ordinance, State and Federal laws.
- C. No cut or fill grade shall exceed a slope of 3:1 or 33.3%. This provision shall apply to all cuts and fills exceeding 100 square feet in exposed surface area.

- D. No waste material such as garbage, rubbish, household appliances, inoperable vehicles, furniture designed for interior use, gasoline, oil, flammable, soils, tars, chemicals, greases, dead plant material, noxious weeds, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm water bodies or ground water, provide a habitat for disease carrying animals and insects, or represent a public safety hazard shall be deposited, located, stored, or discharged outside on any lot: nor shall such waste be allowed to accumulate within structures in a manner that is inconsistent with applicable regulations for the storage of such materials.
- E. No alteration of shoreline, bed of river, streams and/or public lake shall be made until written approval and is obtained from the Indiana Department of Natural Resources and Army Corp of Engineers and the provisions of this ordinance are complied.
- F. All retention, detention, and pond edges must be maintained with a buffer of natural plantings within 20 feet of peak elevation. The use of engineered hard edges is not permitted except around inlets and outlets. The use of engineered hard edges may not exceed 5 percent of lineal feet of the total edge of any retention facility, detention facility, or pond. Rip-rap is permitted by approval of the County Engineer's Office. **(Amended 3)**
- G. All development must be in compliance with Title 7 of the Indiana Code, as amended, as it relates to hazardous waste, low level nuclear waste, underground storage tanks, waste tires, and other applicable chapters of said Title.
- H. All development must be in compliance with Title 13 of the Indiana Code, as amended, as it relates to air pollution, water pollution control, solid waste management, and other applicable chapters of said Title.
- I. No highly flammable or explosive liquids, solids, or gasses specified by the State Fire Marshal shall be stored except in accordance with the rules established by the State Fire Marshal.
- J. All storage tanks, structures, and uses used to store highly flammable or explosive liquids, solids, or gasses shall not be located closer than 50 feet from the adjoining property line.
- K. Material used for fill where permitted by this Ordinance and/or by IDEM, IDNR, or other governmental agency, shall be promptly covered and seeded.
- L. All land, regardless of slope, from which structures or natural cover has been removed or otherwise destroyed shall meet the standards set forth in this Ordinance and/or any other applicable State or Federal requirements regarding soil erosion and storm water drainage.
- M. All development activities must comply with all applicable State and Federal storm water requirements. All development activities must comply with all applicable Storm-water drainage standards in this Ordinance

5.12 Home Occupation

This Home Occupation Standards section applies to the following districts.

AR RR RS RU MF MH

Home Occupations shall be allowed as a conditional use consistent with the provisions of this Ordinance.

- A. Home Occupations are those which meet the following standards; representing requirements which permit minimal business practices in certain residential zoning districts while maintaining residential character. Home Occupations shall be permitted as conditional uses, consistent with Accessory Use and Structure Standards, the provisions of this section and the provisions of this Ordinance.
 - 1. The home occupation must not involve the employment of any person other than those residing at the location of the home occupation.
 - 2. The equipment used for the home occupation must be limited to computers, fax machines, telephones, copy machines, tools, and other small business office equipment.
 - 3. The home occupation must not involve any exterior storage or display of products, equipment or materials.
 - 4. The home occupation must utilize no more than 25 percent of the total floor area of the primary structure.
 - 5. The home occupation must not require any exterior, structural or aesthetic alterations to the dwelling unit that change the residential character of the dwelling unit.
 - 6. The home occupation must not require any additional entrances to the dwelling unit.
 - 7. Signage must meet the standards set forth in the Ordinance Section 5.28.
 - 8. The home occupation must not require increasing or enhancing the size, capacity, or flow of the water, gas, septic, sewer, or electrical system beyond what is standard for a residence.
 - 9. The home occupation may not create electrical interference, odors, noise, vibration, light, smoke, fumes or any other offensive problems.
 - 10. No additional parking may be added to the lot(s) on which the residence is located to accommodate the home occupation.
 - 11. The home occupation must not require the use of commercial vehicles for pick-up and deliveries other than services from the United States Postal Service, UPS and/or other express couriers.
 - 12. Incidental use of a home for employment-related activities shall not constitute a home occupation and shall not be required to obtain a conditional use permit.
- B. Home occupation uses that meet the above described standards may be permitted through a conditional use. If the Board of Zoning Appeals receives a complaint regarding the operation of the Home Occupation

and/or believes the conditions imposed by the condition use permit have not been met, the Board of Zoning Appeals may modify or revoke the conditional use.

Section 5.13 Landscaping Standards

This Landscaping Standards section applies to the following districts:

MF MH NC GC HS OB GI

Minimum Parking Lot and Perimeter Standards

- A. All properties must meet the buffer yard standards requirement of this ordinance; the buffer yard standard takes precedent over landscaping requirement for these portion(s) of the property bordering the subject property and abutting property.
- B. Landscaping plans shall be submitted as part of any development plan. These plans shall include a graphic depiction of the parking lot screening and islands as seen from the street.
- C. Tree(s) must be provided at a ratio of 1 deciduous tree per 20 lineal feet along public street/front setback area and 1 deciduous tree per 25 lineal feet along a side and rear lot line setback area. Tree(s) may be spaced irregularly in informal groupings or be uniformly spaced, as consistent with larger overall planting patterns and organization. Perimeter landscaping along a street may be located in and should be integrated with, the streetscape in the street right-of-way. Plantings within right-of-way must be approved by the County Engineer's Office.
- D. Parking lots with 20 or more spaces must be screened from adjacent uses and the street. Screening must consist of an earthen berm, plant material or a combination of such elements which must have a minimum height of 36 inches. The earthen berm shall be measured at the top of the curb on the subject property side. The screening must extend a minimum of 70 percent along the street frontage and rear and side lots.
- E. To eliminate excessive heat build-up and emission from large parking areas, landscape islands must be provided for every 20 parking spaces. All landscape islands must be at least 200 square feet in size contain at least one 6 foot tall tree that will exceed 30 feet when fully mature, and be designed such that any root ball of a tree is not within 4 feet of any edge of the island.
- F. Plans submitted shall include a graphic depiction of the parking lot screening and islands as seen from the street.

Section 5.14 Loading Standards

This Loading Standards sections applies to the following districts:

NC GC HS OB GI

There shall be provided off-street loading berths not less than the minimum requirements specified in this section in connection with any building or structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles.

- A. All required off-street loading berths shall be located on the same lot as the use to be served.

1. No portion of the vehicle shall project into a street right-of-way or alley easement.
 2. No permitted or required loading berth shall be located within 25 feet of the nearest point of intersection of any 2 streets,
 3. No loading berth shall it be located in front of the primary structure, or on the side of the primary structure adjoining a street.
- B. Off-street loading berths shall be at least 14 feet in width by at least 60 feet in length with a 60 foot maneuvering apron, and shall have a vertical clearance of at least 15 feet.
- C. Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alleys in a manner which will least interfere with traffic movements. There shall be no maneuvering in right-of-way.
- D. All open off-street loading berths shall be improved with a compacted base of asphalt or concrete.
- E. Space allowed to any off-street loading berth shall not, while so allocated be used to satisfy the space requirement of any off-street parking areas or portions thereof.
- F. No loading berths may be erected or used fronting on a bordering street. Provisions for loading and unloading operations and any handling of freight or materials outside of buildings shall be located so as not to face bordering street.
- G. Off-Street Loading Berth Requirements:

Table 5.14 Loading Requirements

Minimum Loading Berth Required	Gross Floor Area
1	Up to 40,000 Square Feet
2	40,001-80,000 Square Feet
3	80,001 – 120,000 Square Feet
4	120,001-160,000 Square Feet
One (1) additional off-street loading berth shall be required for each additional 80,000 square feet after 160,000 square feet.	

Section 5.15 Mobile/Manufactured Home Standards

This Mobile/Manufactured Home Standards applies to the following district(s).

AR RR RS MH

- A. Each mobile or manufactured home shall meet all requirements set forth in any additional ordinance adopted by the Floyd County Commissioners.
- B. All zoning regulations pertaining to the individual site shall be met.
- C. Definition deleted by **Amendment 5**

D. Definition deleted by **Amendment 5**

E. Definition deleted by **Amendment 5**

F. Every Mobile Home and Manufactured Home site shall be provide with a stand consisting of either a concrete slab or two concrete ribbons of a size and thickness adequate to support the maximum anticipated load during all seasons. When concreter ribbons are used, the area between the ribbons shall be filled with crushed rock or gravel to a depth of at least 4 inches. Park developers may provide concrete footers, adequate to support the anticipated loads and extending below the local frost line in lieu of pads or ribbons.

G. Every Mobile/Manufactured Home Park shall have permanent type skirting installed. Said skirting shall be tight enough to prevent the use of the area under the Mobile Home as a harbor or den for rodents or other animals.

H. Definition deleted by **Amendment 5**

I. The entire area between the floor joists of the structure and the under floor grade shall be completely enclosed with a permanent perimeter enclosure constructed in accordance with the terms of the appropriate building code; the manufacturer's installation specifications; and the requirements set forth by the Indiana code.

J. The structure shall posses all necessary building, water, and sewage disposal permits prior to placement of the structure upon the lot.

K. The wheels, axle and hitches must be removed from a manufactured home.

L. Definition deleted by **Amendment 5**

M. Definition deleted by **Amendment 5**

Section 5.16 Mobile/Manufactured Home Park Services Standards Definition deleted by **Amendment 5**

Section 5.17 Parking Standards

This Parking Standards section applies to the following districts.

AR RR

A. Two (2) off-street are required per dwelling unit. Neither of the off-street parking spaces required may include spaces within carports or garages. Off-street parking spaces may not be fully or partially be in a public right-of-way or utility easement. Each space must be at least 9 feet wide by 18 feet deep and graveled.

Section 5.18 Parking Standards

This Parking Standards section applies to the following districts.

RS RU

- A. Two (2) off-street paved with asphalt or concrete, are required per dwelling unit. Neither of the off-street parking spaces required may include spaces within carports or garages. Off-street parking spaces may not be fully or partially be in a public right-of-way or utility easement. Each space must be at least 9 feet wide by 18 feet deep.

Section 5.19 Parking Standards

This Parking Standards section applies to the following districts:

MF MH

- A. Two (2) paved off-street parking spaces with concrete or asphalt are required per dwelling unit. In addition, at least 1 space per 2 dwelling units shall be provided for visitors parking and shall be spread evenly throughout the development. Visitor parking spaces cannot include spaces in carports or garages. Further, any off-street parking space may not fully or partially be in a public right-of-way or utility easement. Each space must be at least 9 feet wide by 18 feet deep.

Section 5.20 Parking Standards

This Parking Standards section applies to the following districts:

NC GC HS OB GI PR

All parking lots for commercial and industrial, institutional, business, public and private employee parking, offices, organizations, and places of assembly must be paved. Expansion of an existing gravel, stone, rock, dirt, sand, or grass lot is not permitted. In addition, parking lots must conform to all the following requirements.

- A. All ingress/egress into parking areas must be paved.
- B. Parking spaces may extend into any required front and/or side setback requirement up to a maximum of 50 percent of the required setback.
- C. Parking shall not be permitted within any required right-of-way, easement or required buffer yard.
- D. Parking spaces shall be a minimum of 9 feet wide by 18 feet deep and be striped so as to show each parking space.
- E. Parking aisle widths shall be as follows:
 - 1. 90 degree angle space – 24 feet wide parking aisle
 - 2. 60 degree angle space – 18 feet wide parking aisle
 - 3. 45 degree angle space – 14 feet wide parking aisle
- F. Parking areas shall be designed to prevent vehicles from maneuvering in the public right-of-way.
- G. Parking areas must be constructed to allow for proper drainage and meet all requirements of this Ordinance.

- H. Parking spaces prescribed in this section must be located either on the premises or on a lot approved by the Plan Commission. All required off-street parking spaces, however, must be located within 600 feet of subject lot and be accessible by a sidewalk and appropriate street crossing measures to ensure pedestrian safety.
- I. A group of adjacent properties may provide a joint parking area if the number of spaces required for all properties is adequate, and the joint lot provides at least 75 percent of the total spaces required for each use. The Planning Director must approve all joint parking areas. A written reciprocal parking agreement signed by all property owners involved is required and must include provisions concerning at least the following items.
 - 1. Maintenance
 - 2. Ownership
 - 3. Snow Removal
 - 4. Liability
- J. The agreement must be reviewed and approved by the Planning Director and/or the Plan Commission Attorney. The agreement must be recorded in the Office of Recorder, Floyd County. The recorded agreement must also be submitted for recordkeeping to the Floyd County Plan Commission.
- K. Parking areas containing more than 100 parking spaces shall provide bicycle-parking facilities at a rate of one space per 20 parking spaces, up to a maximum of 20 bicycle parking facilities. Bicycle racks shall be installed to support the frame of the bicycle.
- L. Parking areas containing more than 100 parking spaces shall provide separate interior pedestrian walkways. Such walkways should generally be oriented perpendicular to and between parking bays and buildings.
 - 1. The walkway should be a minimum of 6 feet wide

Section 5.21 Parking Standards

This Parking Standards applies to the following districts:

NC GC HS OB GI PR

- A. To reduce traffic congestion and hazards, off-street parking shall be required for commercial and industrial uses. The minimum number of parking spaces shall be the accumulative total of all applicable uses described in Appendix B – Parking Standards.
- B. The parking requirements will be determined by the Planning Director for any use not listed in Appendix B. Any decision by the Planning Director can be appealed to the Board of Zoning Appeals.

Section 5.22 Parking Standards

This Parking Standards section applies to the following districts:

AR RR RS RU MF MH NC GC HS OB GI PR

- A. Vehicles or trailers of any type without current license plates or in an inoperable condition shall be prohibited in residential zone districts other than in completely enclosed buildings and prohibited in commercial zones unless fully screened, and shall not be parked or stored in any zone unless specifically authorized under the terms of this Ordinance.
- B. No vehicle or tractor/trailer of any type may be use predominantly for the purpose of personal storage.

Section 5.23 Performance Standards

This Performance Standards section applies to all zoning districts within the jurisdiction of the Floyd County Plan Commission. All uses placed into operation after the effective date of this Ordinance should comply with the following general performance standards in the interests of protecting the health, safety, and general welfare and lessening damage to property. No use on a property should exhibit obnoxious characteristics to the extent that it constitutes a public nuisance or interferes with reasonable enjoyment of neighboring properties. No use in existence on the effective date of this Ordinance should be altered or modified to conflict with these standards. The "Right to Farm" laws may supersede these guidelines as they pertain to farming and agricultural uses.

AR RR RS RU MF MH NC GC HS OB GI PR

- A. No use on a property should release fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property or conflict with public air quality.
- B. No use on a property should cause electrical disturbance adversely affecting radio, television, and other equipment in the vicinity.
- C. Fire fighting equipment and prevention measures acceptable to local Fire Departments should be readily available and apparent when any activity involving the handling and storage of flammable or explosive materials is conducted.
- D. No use on a property should produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness, or vibration. Such noise should be muffled or otherwise controlled so as not to become detrimental. Public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.
- E. No use on a property should emit across lot lines any gas or matter with a bad odor in such quantity as to be readily detectable at any point along such lines.
- F. No use on a property should cause vibrations detectable beyond lot lines without the aid of instruments
- G. No use of a property should produce heat and glare in such a matter as to create a hazard to neighboring property. No such heat or glare interferes with the reasonable enjoyment of neighboring property, or the safety of transportation routes.
- H. No use on a property should accumulate waste matter within the lot or discharge waste matter beyond the lot lines
- I. No use on a property should produce erosion or other pollutants in such a quantity as to be detrimental to adjacent properties or to conflict with the public water quality standards.

Section 5.24 Sight Visibility

This Sight Visibility Standards section applies to the following districts.

AR RR RS RU MF MH NC GC HS OB GI PR

The intent of the Sight Visibility Standards is to provide a safe vehicular and pedestrian transportation system. The visibility at intersections, driveways, curb cuts, and entrances are particularly important for the safe movement of vehicles and pedestrians.

- A. All intersections must maintain an area (Sight Visibility Triangle) where primary or accessory structures, trees, vegetation (other than agricultural crops), or signs (other than road signs) are not allowed to be placed or to project between a height of 3 and 8 feet measured from the nearest top-of-the curb (or edge of pavement where curbs are not present.)
- B. The Sight Visibility Triangle shall be established by connecting points located along the intersecting rights-of-way at distances from the point of intersection required.
- C. Ingress and egress points shall have adequate sight distance as required by the County Engineer. Ingress and egress points that enter onto a major collector road classification or higher shall be required to have a turn-around area to eliminate backing a vehicle onto the road.

Section 5.25 Sign – General Standards

The intent of this section is to further the goals of the Comprehensive Plan; avoid the proliferation of signage; encourage signs to be compatible with the scale of buildings and the surrounding features; maintain and enhance the aesthetic environment of the county; eliminate potential hazards to motorists and pedestrians resulting from signs; and promote the health, safety, and welfare of the residents of Floyd County.

This General Sign Standards section applies to the following districts:

AR RR RS RU MF MH NC GC HS OB GI PR

Except as otherwise provided in this Article, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign within the jurisdiction of the Floyd County Plan Commission, or cause the same to be done without first obtaining a sign permit from the Planning Director. The following general sign standards apply to all signs within the jurisdiction of the Floyd County Plan Commission.

- A. Signs for which a permit is required may be inspected periodically by the Planning Director for compliance with this Article.
- B. The Planning Director may order the removal of any sign erected or maintained in violation of this Article consistent with the provisions of Article 15 of this Ordinance.
- C. All signs and their components shall be kept in good repair and in safe, neat, clean and attractive condition. If failure to maintain a sign is determined by the Planning Director, a written notice will be given to the owner, business operator or lessee of the property consistent with the provisions of Article 15 of this Ordinance.

- D. A sign shall be removed by the owner or lessee of the premises upon which the sign is located within 30 days from the date when the business which it advertises is no longer conducted on the premises. For the purpose of this requirement, the sign shall include all supports, poles, and other structural elements. In no instance shall the removal of only the sign face be considered compliance with this provision.
- E. All illuminated signs must meet the standards specified in the State Electrical Code, as adopted and amended by the State of Indiana. In addition, all illuminated signs shall comply with the lighting standards set forth in this Ordinance under Article 13 and the following.
1. All illuminating elements shall be kept in satisfactory working condition and immediately repaired or replaced if damaged or burned out. Signs that are only partially illuminated shall meet all electrical requirements for that portion directly illuminated.
 2. All electrical wiring for permanent signs shall be in conduit. All electricity for signs shall have a disconnecting switch located in a readily accessible place.
 3. The direct or reflected light from a primary light source shall not create a traffic hazard to operators of motor vehicles on public and/or private roadways.
- F. The following signs do not require a permit from all provisions of this Ordinance
1. Signs owned and maintained by government agencies.
 2. Signs inside a building, excepting the following:
 - a. Strobe lights, and/or floating lights visible from a public right-of-way, private road or other private property.
 3. Signs carved into or part of materials that are integral part of the building.
 4. A single sign where the display surface does not exceed 6 square feet
 5. Incidental signs situated on the inside of a window or door
 6. Flags
 7. Signs required by law or legal action including but not limited to, signs warning of hazardous or dangerous conditions on a premises and land use application and hearing notice signs.
- G. The following types of signs are expressly prohibited in all zoning districts.
1. Signs with animated, rotating or moveable parts or lights or emits an audible sound, odor or visible matter excepting government signs and signs meeting the exception set forth in animated sign definition.
 2. Signs that purport to be or are in imitation of, or resemble an official traffic sign or signal or which bear the words "Stop", "Slow", "Caution", "Danger", "Warning", or similar words.
 3. Signs that may be construed as a light of an emergency or road equipment vehicle.
 4. Signs that hide any traffic or roadway sign, signal or device from view.
 5. Signs that interfere with the Sight Visibility Area as set forth in Section 5.24.
 6. Signs located in any right-of-way.
 7. Signs that obstruct any door, fire escape, stairway, or any opening intended to provide entrance or exit for any structure.
 8. Signs placed on vehicles, trailers, or wheeled platforms parked on public or private property primarily for the purpose of displaying the sign. Prohibited signs do not include those displayed on

vehicles parked for the purpose of lawfully making deliveries or random sales or service. Prohibited signs do not include vehicles which are customarily used for transporting persons or properties, and vehicles parked at a driver's place of residence during non-business hours or for incidental purposes, so long as the sign relates to the services and goods provided.

Section 5.26 Temporary Sign Standards

This Temporary Sign Standards section applies to the following districts:

AR RR RS RU MF MH NC GC HS OB GI PR

A. Temporary sign(s) shall be permitted providing:

1. Any temporary sign(s) permitted shall be located, installed and maintained in accordance with all other provisions of this section and other applicable state and local codes. *(Amended 1)*
2. Total square footage of the temporary sign(s) shall not exceed a total of 36 square feet cumulatively. *(Amended 1)*
3. No temporary sign can exceed 6 feet in height as measured from the ground
4. Temporary sign(s) shall be for temporary use only and shall not exceed a total of 6 months of use during a calendar year.

B. Any temporary sign maintained in excess of the time limit of the permit or otherwise in conflict with any provisions of this section may be declared a nuisance and hazard and is subject to removal by the Planning Director, at the expense of the owner.

C. Construction project signs shall be permitted on each street frontage of the project subject to the following:

1. The sign shall not exceed 64 square feet in area.
2. Be confined to the construction area.
3. Signs can not be erected until all applicable approvals have been made.
4. Construction Project Signs shall be removed when 90 percent of development's lots and/or space has been leased or sold.

Section 5.27 Permanent On-Premise Sign Standards

This Permanent Sign Standards section applies to the following districts

NC GC HS OB GI PR

The following sign regulations shall apply. All signs require a permit unless otherwise specified.

- A. 2.0 square foot of sign area shall be allowed for every 1 linear foot of the front façade of the building that is occupied by that use or for every 1 linear foot of lot frontage. (For example: If a use occupies a tenant space in a commercial building and that space includes 50 feet of the buildings frontage then 100 square feet of signage would be allowed for the use.) In no instance shall the amount of signage permitted per use exceed 200 square feet. Any combination of the following signs may be used as long as they do not exceed the total area allowed per use or are inconsistent with the other development standards listed in this section:

1. Wall signs,
 2. Awning signs,
 3. Projecting signs,
 4. Pole signs, **(Amended 1)**
 5. Ground signs, **(Amended 1)**
 6. Multi-Tenant Joint Entrance Signs
 7. Roof Signs **(Amended 3)**
- B. Wall signs shall be located on the facade of the primary structure. No wall sign shall exceed 50 square feet in area and shall not exceed above the eaves of the façade of the building. Marquee/Reader board signs can not exceed 40 percent of the total square footage of a wall sign. **(Amended 5)**
- C. Awning signs shall be printed on awnings mounted on the facade of the primary structure.
- D. No projecting sign shall, at its lowest point (except for the supporting building, structure, or column), be less than 8 feet above grade level. In no case shall it extend more than 4 feet beyond its supporting structure. Permission must be granted by the County Engineer if the proposed sign extends into the right-of-way. No projecting sign shall exceed 12 square feet in area. No more than 1 projecting sign shall be permitted per use.
- E. Free-standing signs shall be placed a minimum of 10 feet from the public right-of way. No pole sign may exceed 18 feet in height and 75 square feet in area. No ground signs may exceed 12 feet in height and 75 square feet in total area. Free-standing signs may be double-faced. **(Amended 1)** Marquee/ Reader board signs can not exceed 40 percent of the total square footage of a free-standing sign. **(Amended 5)**
- F. Structures containing multiple uses shall establish 1 sign at each entrance for the joint use of all tenants for which the facility is designed. The use of individual free-standing signs for each tenant is prohibited. Each sign shall be setback a minimum of 10 feet from all public rights-of-way. No multi-tenant sign may exceed the primary building height for the base zoning district and exceed 32 square feet per tenant in area doubled faced. **(Amended 1)**
- G. Commercial and industrial subdivision(s) lots shall establish 1 ground sign per subdivision lot. No pole signs are allowed. Each ground sign shall be setback a minimum 10 feet from all public right-of ways. No ground sign may exceed 12 feet in height and exceed 64 square feet. **(Amended 1)**
- H. Non-illuminated window signs not exceeding 25 percent of the window area are permitted. No permit is required and they shall not be counted toward the total area allowed per use. Illuminated window signs, and any exceeding 25 percent of the window area shall be counted toward the total sign area and shall require a sign permit.
- I. Directional signs must be no more than 4 feet in height and no more than 6 square feet in area. Directional signs shall be setback a minimum of 2 feet from all public rights-of-way. No permit is required and they shall not be counted toward the total area allowed per use.
- J. Roof Signs shall be located as per definition in ordinance. No roof sign shall exceed 50 square feet in sign area. **(Amended 3)**

- K. Time and Temperature signs shall be allowed on wall, ground, pole or freestanding signs. A Time and Temperature sign can not exceed 10 percent of the total square footage for the abovementioned signs as defined in Section 5.27.

Section 5.27.01 Permanent On-Premise Electronic Variable Message Signs

Electronic Variable Message Signs shall comply with the requirements of this section and all other applicable sign requirements set forth in this ordinance.

This Permanent Sign Standards section applies to the following districts

GC

- A. Electronic Variable Message sign shall be allowed only in Integrated Centers.
- B. Electronic Variable Message sign shall be located a minimum of two hundred feet from an road intersection
- C. 1 (One) Electronic Variable Message sign shall be allowed per Integrated Center
- D. Electronic Variable Message sign shall not exceed 60 square feet in area.
- E. Electronic Variable Message sign shall be located on a ground, pole, or multi-tenant sign.
- F. Electronic Variable Message sign shall not contain or display animated, moving video or scrolling advertising.
- G. Electronic Variable Message Signs shall display an image, symbol or combination thereof for a period of time not less than ten (10) seconds, and a change in the image, symbol, or combination shall be accomplished in two (2) seconds and occur simultaneously. Once changed, the image, symbol or combination shall remain static until the next change.
- H. Electronic Variable Message Signs must contain a default mechanism that freezes the sign in one position if a malfunction occurs.
- I. Electronic Variable Message Sign shall only be allowed to advertise on-premises businesses
- J. Electronic Variable Message Sign shall operate under the same business hours as the Integrated Center hours of operation.

Section 5.28 Permanent On-Premise Sign Standards

This Permanent Sign Standards section applies to the following districts This Permanent Sign Standards section applies to the following district:

AR RR RS RU MF MH

The following sign regulations shall apply. All signs require a permit unless otherwise specified.

- A. All signs in these districts listed shall comply with the following requirements.
 - 1. Total square footage shall not exceed 36 square feet in sign area. ***(Amended 1)***
 - 2. Maximum height shall not exceed 6 feet.
 - 3. Subdivision, Multi-Family and Mobile Home Park entrances shall be a monument sign(s) not exceeding 36 square feet in sign area and not exceeding 6 feet in height. Dual signs can be placed at each entrance. ***(Amended 1)***

4. Institutional-Public uses listed in Appendix A shall follow the standards set forth in Section 5.27

Section 5.29 Permanent Off-Premise Signs Standards

NC GC HS OB GI PR

A. All signs in these districts listed shall comply with the following requirements.

1. No off-premise signs are allowed in either the Highlander Point or Edwardsville Gateway District
2. No off-premise signs are allowed in any designated federal/ state scenic roadway or scenic by-way
3. Total square footage shall not exceed 36 square feet in sign area.
4. Maximum height shall not exceed 6 feet.
5. No off-premise sign shall be placed closer than 1,500 feet from another off-premise sign on the same side of the interstate highway, state highway or any local road
6. Off premise signs may be doubled-faced

Section 5.30 Telecommunication Facilities Standards (Installation)

This Telecommunication Facilities Standards section applies to the following districts

AR RR RS RU MF MH NC GC HS OB GI PR

The purpose of this section is to allow for the provision of adequate reliable public and private telecommunication service and to maximize the use of any transmission tower and tower site in order to reduce the total number of towers and locations needed to serve the telecommunications needs of the area; to minimize adverse, undesirable visual effects of towers through careful design, siting, and vegetative screening. All telecommunication facilities shall meet the following provisions:

- A. The installation of new antenna on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the Planning Director subject to conformance with all applicable requirements of this Ordinance.
- B. The installation of new accessory structures to support the installation of antenna on existing towers or alternative structures may be approved by the Planning Director subject to conformance with the applicable requirements of this Ordinance.
- C. The installation of new towers shall be approved either by the Board of Zoning Appeals as a conditional use consistent with the provisions of this section.

Section 5.31 Telecommunication Facilities Standards (Location)

This Telecommunication Facilities Standards section applies to the following districts:

AR RR RS RU MF MH NC GC HS OB GI PR

Any proposal for a new telecommunications tower shall only be approved if the applicant submits verification that the antennas planned for the proposed tower cannot be accommodated on any existing or approved towers or structures within a 3 mile radius of the proposed tower location due to one or more of the following reasons:

- A. The antennas would exceed the structural capacity of the existing or approved tower or structure as

documented by a qualified and licensed professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified, or replaced to accommodate the antennas at a reasonable cost.

- B. The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site. Supportive documentation by a qualified and licensed professional engineer indicating that the interference cannot be prevented at a reasonable cost must be provided.
- C. The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- D. Other unforeseen reasons that make it unfeasible or impossible to locate the planned telecommunications equipment upon an existing or approved tower or structure as certified and documented by a qualified and licensed professional engineer.
- E. Unable to enter a commonly reasonable lease term with the existing tower owner or land owner.
- F. Additional land area is not available.

Section 5.32 Telecommunication Facilities Standards (Siting)

This Telecommunication Facilities Standards section applies to the following districts

AR RR RS RU MF MH NC GC HS OB GI PR

All telecommunications facilities shall meet the following design requirements:

- A. Towers and antennas should generally be designed to blend into the surrounding environment through the use of color, camouflaging and architectural treatment, except in an instance where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- B. Wireless telecommunication service towers less than 131 feet tall should generally be of a monopole design and, when located within or adjacent to an environmentally, aesthetically sensitive area or a residential district, designed in such a way as to architecturally camouflage the wireless telecommunication service tower as much as reasonably practical to blend into the surroundings.
- C. The use of residentially compatible materials such as wood, brick, or stucco is required for associated support structures, which shall be designed to architecturally match the exterior of any adjacent residential or commercial structures within the neighborhood or area. Only if the facility will be 100 percent screened, as determined by the Planning Director, during all seasons may other materials be used.
- D. Only when lighting is for safety or security reasons or required by the Federal Aviation Administration or other federal or state authority will it be permitted. All ground level security lighting shall be meet the lighting requirements set forth in this Ordinance.
- E. Any proposed telecommunication tower shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicant's equipment and at least 3 telecommunication providers.
- F. The proposed compound area surrounding the Monopole must be of sufficient size to accommodate

Accessory Equipment for at least 3 telecommunication providers.

- G. Stealth Telecommunication Facilities shall be designed to accommodate the Co-location of other Antennas whenever economically and technically feasible or aesthetically appropriate, as determined by the Board of Zoning Appeals.
- H. Each additional user shall be assumed to have an antenna loading equal to that of the initial user.
- I. Towers must be designed to allow for future rearrangement of antennas upon the tower and accept antennas mounted at varying heights.

Section 5.33 Telecommunication Facilities Standards (Buffer)

This Telecommunication Facilities Standards section applies to the following districts

AR RR RS RU MF MH NC GC HS OB GI PR

All telecommunications facilities shall meet the following site requirements:

- A. All telecommunications facilities shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance and emergencies.
- B. Vehicular access to the tower and equipment building shall, whenever feasible, be provided along existing driveways.
- C. The lot where the tower is located (or lease area) shall be large enough to accommodate all future anticipated accessory structures needed by future antenna users.
- D. No part of any wireless telecommunications facility nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
- E. An 8 foot high security fence shall completely surround the tower and equipment building site. An area 10 feet in width may remain outside of the fence for the purpose of providing the landscape screening described in (f) below.
- F. Evergreen buffer plantings shall be located around the outermost perimeter of the security fence of all wireless telecommunications facilities, including any guy wires and anchors.
- G. If evergreen hedges are used they shall be a minimum of 5 feet tall at the time of planting and planted a maximum of 3 feet on center.
- H. If evergreen trees are used they shall be a minimum of 6 feet tall at the time of planting and planted a maximum of 10 feet on center.
- I. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

Section 5.34 Telecommunication Facilities Standards (Process)

This Telecommunication Facilities Standards section applies to the following districts

AR RR RS RU MF MH NC GC HS OB GI PR

All antennas, tower and accessory structures constructed within the Floyd County Plan Commission jurisdiction, shall comply with the following construction requirements:

- A. Any application for a telecommunication facility, tower or accessory structures shall include the following:
 - 1. Copy of the lease or letter from property owner(s) showing evidence of applicant's authority to pursue conditional use approval.
 - 2. Detailed drawings detailing proposed improvements. Drawings must depict improvements, including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements.
 - 3. Number and type of proposed Antennas and their height above ground level
 - 4. When locating in a residential area, a written technical and operational analysis of why a Monopole or similar structure at a height of less than 125 feet cannot be used.
 - 5. Line of Sight diagram or photo simulation showing the proposed Support Structure set against the skyline and viewed from at least 4 directions within the surrounding areas.
 - 6. A statement justifying why Co-location is not feasible.
 - 7. A statement that the proposed Support Structure will be made available for Co-location to other service providers at commercially reasonable rates.
 - 8. Any associated fees with application.
- B. All applicable provisions of the Building Code of the State of Indiana and the Federal Communications Commission.
- C. Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code.
- D. Towers and antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
- E. Towers shall be constructed to conform with the requirements of Occupational Safety and Health Administration.
- F. An engineer's certification shall be submitted to document and verify the design specifications including but not limited to, the foundation for the tower, anchors for the guy wires if used, co-location, and strength requirements for natural forces; ice, wind, earth movements, etc.

- G. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower, antenna and a structure, or between towers, shall be at least 8 feet above the ground at all points, unless buried underground.
- H. Towers and antennas shall be designed and constructed, at a minimum, to withstand wind gusts of at least 80 miles per hour with one-half inch of ice, also accommodating any co-location requirements.
- I. Telecommunication Facility shall provide signage to identify ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulations.

Section 5.35 Telecommunication Facilities Standards (Existing)

This Telecommunication Facilities Standards section applies to the following districts

AR RR RS RU MF MH NC GC HS OB GI PR

The following shall apply to Existing Antennas and Towers:

- A. Existing towers may continue in use for their current purpose but may not be replaced or structurally altered without complying in all respects to the requirements in this Ordinance. Any request submitted to the Floyd County Plan Commission to install an antenna to be located on an existing approved or "grandfathered" tower will only require an improvement location permit and a copy of the contract between the applicant company and the owner of the tower. If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former location, and physical dimensions upon obtaining an improvement location permit.
- B. Any tower unused or left abandoned for 12 consecutive months shall be removed by the tower owner at their expense. At the time an improvement location permit is received for the construction of any tower or antenna, both the property owner and tower owner shall provide a bond meeting the requirements of the County in an amount and duration necessary to ensure the tower's and/or antenna's removal.

Section 5.36 Telecommunication Facilities Standards

This Telecommunication Facilities Standards section applies to the following districts

RS RU MF MH NC

Wireless telecommunications facilities shall require approval as a Conditional Use from the Board of Zoning Appeals and shall meet all the following requirements in addition to the general requirements and all other applicable provisions of this Ordinance:

- A. The tower shall be a monopole design, and shall be setback from any property line a distance equal to at least 100 percent the height of the tower.
- B. Other support structure shall be governed by the setbacks required in the underlying base zoning district.
- C. The maximum height of the tower shall be 150 feet. The maximum height of any accessory structure shall be 15 feet
- D. The fence enclosing the facility shall be opaque and of wood, brick, or stone construction. Opaque, 8 foot

tall wooden gates, matching any wooden fence, or painted to match a fence of another material shall be provided to access the facility.

- E. Monopoles and other support structures shall be setback from all off-site residential dwellings a distance equal to the height of the structure.

Section 5.37 Telecommunication Facilities Standards

This Telecommunication Facilities Standards section applies to the following districts

AR RR GC HS OB GI PR

Wireless telecommunications facilities shall require approval as a Conditional Use from the Board of Zoning Appeals and shall meet all the following requirements in addition to the general requirements and all other applicable provisions of this Ordinance:

- A. The minimum setback from the side and rear property line shall be equal to 50 percent of the height of the tower. Towers shall not be permitted in any required front yard.
- B. The maximum height of the tower shall be 199 feet. The maximum height of any accessory structure shall be 15 feet
- C. Monopoles and other support structures shall be setback from all off-site residential dwellings a distance equal to the height of the structure.

Section 5.38 Temporary Use/Structure Standards

This Temporary Use/Structure Standards section applies to the following districts.

AR RR RS RU MF MH NC GC HS OB GI PR

- A. Any temporary use requires a temporary improvement permit.
- B. The Planning Director will approve all temporary improvement permits with or without stipulations. Any decision of the Planning Director is subject to an appeal to the Board of Zoning Appeals.
- C. Temporary uses or standards that are intended to transition into a permanent use or structure must meet all standards for a permanent use or structure. In the event, that the intent is not noted upon the application, the transition to a permanent use or structure will not be permitted for 1 year from the application date.
- D. The Planning Director may extend the duration of a temporary use or structure 1 time with findings of substantial need. The duration of the extension can not exceed the length of the permitted time without the application for another temporary use or structure permit.
- E. All temporary uses or structures must be removed and the original site reverted to its original condition, and completed within the duration of the permit.

- F. A Temporary Use Permit may be issued to an applicant whose own health or the health of another necessitates care, and where the facts show that an unnecessary hardship would occur if not permitted to locate a mobile and/or manufactured home adjacent to the residence of one who is able to provide such care or in need of such care. The permit would be for the lifetime of the person needing care and may be renewable every two years from the date of issuance with staff or board consent.
- G. At no time may anyone occupy a recreational vehicle or use a parked or stored recreational vehicle for living, sleeping or housekeeping purposes.

Section 5.39 Temporary Use/Structure Standards

This Temporary Use/Structure Standards section applies to the following districts.

NC GC HS OB GI

- A. Construction trailers are permitted for up to 12 months.

Section 6.01 Flood Hazard Area Standards

The Flood Hazard Area Standards applies to all zoning districts within the jurisdiction of the Floyd County Plan Commission. The purpose of this section is to guide development in flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, Floyd County adopts these flood hazard area standards in order to accomplish the following:

- A. to prevent unwise developments from increasing flood or drainage hazards to others;
- B. to protect new buildings and major improvements to buildings from flood damage;
- C. to protect human life and health from the hazards of flooding;
- D. to lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- E. to maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and to make federally subsidized flood insurance available for structures and their contents in the County by fulfilling the requirements of the National Flood Insurance Program.

Section 6.02 Duties of the Planning Director

The Executive Director of the Floyd County Plan Commission, or his/her designee, shall implement this ordinance and hereafter be referred to as the Planning Director. The Planning Director for the County is appointed to review all development and subdivision proposals to ensure compliance with this ordinance including but not limited to the following duties:

- A. Ensure that all development activities within the Special Flood Hazard Areas (SFHA) of the jurisdiction of the County meet the requirements of this Ordinance;
- B. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- C. Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to the requirements of this section, and maintain a record of such authorization (either copy of actual permit or letter of recommendation);
- D. Maintain a record of the "as-built" elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction;
- E. Maintain a record of the engineer's certificate and the "as-built" flood-proofed elevation of all buildings subject to the requirements of this section;
- F. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this section. Submit reports as required for the National Flood Insurance Program;
- G. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map

Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, and "as-built" elevation and flood-proofing data for all building constructed subject to this Ordinance; and

- H. Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

Section 6.03 Regulatory Flood Elevation

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

- A. The regulatory flood elevation and floodway limits for each of the SFHAs of these rivers and creeks identified in Flood Insurance Study of the County dated July 1980 shall be delineated on the 100 year flood profile therein and the corresponding FBFM dated January 2, 1981 prepared by the Federal Emergency Management Agency.
- B. The regulatory flood elevation for each SFHA delineated as an "AH Zone or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the County.
- C. The regulatory flood elevation and floodway limits for each of the remaining SFHAs delineated as an "A Zone" on the Flood Insurance Rate Map of the County shall be according to the best data available as provided by the Department of Natural Resources.

Section 6.04 Improvement Location Permit Application

No person, firm, corporation, or governmental body not exempted by state law shall commence any "development" in the SFHA without first obtaining an Improvement Location Permit. The Planning Director shall not issue an Improvement Location Permit if the proposed "development" does not meet the requirements of this Ordinance.

- A. The application for an Improvement Location Permit shall be accompanied by the following:
 - 1. A description of the proposed development.
 - 2. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.
 - 3. A legal description of the property site.
 - 4. A site development plan showing existing and proposed development locations and existing and proposed land grades.
 - 5. Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included.
- B. Upon receipt of an application for an Improvement Location Permit, the Planning Director shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined.
- C. If the site is in an identified floodway the Planning Director shall require the applicant to forward the

application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

- D. Under the provisions of IC 14-28-1 a permit from the Natural Resources Commission is required prior to the issuance of a local improvement location permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the building.
- E. No action shall be taken by the Planning Director until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Planning Director may issue the local Improvement Location Permit, provided the provisions contained in section 6.05 and 6.06 of this ordinance have been met. The Improvement Location Permit cannot be less restrictive than the permit issue by the Natural Resources Commission.
- F. If the site is located in an identified floodway fringe, the Planning Director may issue the local Improvement Location Permit provided the provisions contained in section 6.05 and 6.06 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade (FPG).
- G. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Planning Director shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.
- H. No action shall be taken by the Planning Director until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.
- I. Once the Planning Director has received the proper permit or letter of recommendation approving the proposed development, an Improvement Location Permit may be issued provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained in this section have been met.
- J. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Planning Director shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100 year elevation for the site.
- K. Upon receipt, the Planning Director may issue the local Improvement Location Permit, provided the provisions contained in this 6.05 and 6.06 have been met.

Section 6.05 Preventing Increase Damages

No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety. Within the floodplain identified on the Flood Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis provided, no development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood or result in a net loss of flood water capacity.

- A. For all projects involving channel modifications or fill (including levees) the County shall submit the data and request that the Federal Emergency Management Agency revise the flood regulatory flood data.
- B. Within all SFHAs identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standards shall apply:
 - 1. The total cumulative effect of the proposed development when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than allowable under Indiana Department of Natural Resources requirements and will not increase flood damages or potential flood damages.
- C. Public Health Standards in all SFHAs. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a flood-proofed storage tank or building constructed according to the requirements of this section.
- D. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

Section 6.06 Protecting Buildings

In addition to the damage prevention requirements of section 6.05, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- A. Construction or placement of any new building having a floor area greater than 400 square feet;
- B. Structural alterations made to: an existing (previously unaltered) building, the cost of which equals or exceeds 50 percent of the value of the pre-altered building (excluding the value of the land); any previously altered building; reconstruction or repairs made to a damaged building that are valued at or more than 50 percent of the market value of the building (excluding the value of the land) before damage occurred;
- C. Installing a manufactured home on a new site or a new manufactured home on an existing site. This Ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and
- D. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- E. The building protection requirement may be met by one of the following methods. The Planning Director shall maintain a record of compliance with these building protection standards as required by this section.
- F. Residential or Non-residential Structures on Fill: A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:
 - 1. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95 percent of the maximum density obtainable with the Standard Proctor Test method.
 - a. The fill should extend at least 10 feet beyond the foundation of the building before

sloping below the FPG.

- b. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
- c. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- d. The top of the lowest floor including basements, (see definition of lowest floor) shall be at or above the FPG.

G. A residential or nonresidential building may be elevated in accordance with the following:

- 1. The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided: (1) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every one square foot of enclosed area subject to flooding (the bottom of all such opening shall be no higher than one foot above grade); (2) Any enclosure below the elevated floor is used for storage of vehicles and building access.
- 2. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice, and floating debris.
- 3. All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

H. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

- 1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
- 2. Outside a manufactured home park or subdivision;
- 3. In a new manufactured home park or subdivision;
- 4. In an expansion to an existing manufactured home park or subdivision; or
- 5. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

- I. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.
 1. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- J. Recreational vehicles placed on a site shall either:
 1. Be on the site for less than 180 consecutive days;
 2. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 3. Meet the requirements for "manufactured homes" in section 6.06 (H) above.
- K. Flood-proofed Non-residential Structures: A non-residential building may be flood-proofed to the FPG (in lieu of elevating) if done in accordance with the following:
 1. A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
 2. Flood-proofing measures shall be operable without human intervention and without an outside source of electricity.

Section 6.07 Other Development Requirements

The Planning Director shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere in this Ordinance. If the Planning Director finds the subdivision to be so located, the Planning Director shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Planning Director shall require appropriate changes and modifications in order to assure that:

- A. It is consistent with the need to minimize flood damages;
 1. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 2. Adequate drainage is provided so as to reduce exposure to flood hazards
 3. On-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- B. Developers shall record the 100 year flood elevation on all subdivision plats containing lands (identified elsewhere by this ordinance) with a flood hazard area prior to submitting the plats for approval by the Plan Commission.

- C. All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed with the appropriate community emergency management authorities.

Section 6.08 Variances

The Board of Zoning Appeals may consider a variance to the terms and provisions of this ordinance provided the applicant demonstrates that:

- A. The variance meets the basic requirements set forth in Indiana Code 36-7-4-918.5
- B. There exists a good and sufficient cause for the requested variance;
- C. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant, and,
- D. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- E. The Board of Zoning Appeals may issue a variance to the terms and provision of this ordinance subject to the following standards and conditions:
 - 1. No variance or exception for a residential use within a floodway subject to section 6.05 (A) or (B) of this ordinance may be granted.
 - 2. Any variance or exception granted in a floodway subject to section 6.05 (A) or (B) of this ordinance will require a permit from Natural Resources.
 - 3. Variances or exceptions to the Building Protection Standards of section 6.06 may be granted only when a new structure is to be located on a lot of .5 acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
 - 4. Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.
 - 5. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
 - 6. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

Section 6.09 Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will

occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the community, Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

Section 6.10 Violations

- A. Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Floyd County. All violations shall be punishable by a fine not exceeding \$500.00
- B. A separate offense shall be deemed to occur for each day the violation continues to exist.
- C. The Floyd County Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- D. Nothing herein shall prevent the County from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Section 6.11 Abrogation and Greater Restrictions

- A. This ordinance repeals and replaces other ordinances adopted by the Floyd County Commissioners to fulfill the requirements of the National Flood Insurance Program. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the County Commissioners shall assure that all National Flood Insurance Programs regulations (44 CFR-60) as well as Indiana laws and regulations regarding floodplain issues (312 IAC 10, IC 14-28-1 and IC 14-28-3) are met.

Section 7.01 Planned Unit Development (PD)

The Planned Unit Development is a designated special district that can be pursued by an applicant. The purpose of a Planned Unit Development is to encourage the flexibility to develop or redevelop land in an effort to promote appropriate uses, maintain unique character features such as natural and historic resources and promote innovative design concepts. It is also designed to facilitate the economies of scale in relationship to infrastructure and public services and encourage in-fill development opportunities.

Section 7.02 Permitted Uses

All uses are subject to the discretion and approval of the Plan Commission. No uses are granted by right.

Uses within the base zone will generally be considered for a planned unit development. Mixed uses will be considered and may be encouraged when appropriate. Mixed use allowances have been developed for each base zone district. All land uses in a proposed planned unit development must not be in conflict with the spirit and intent of the Comprehensive Plan, surrounding land uses, and zoning districts.

Section 7.03 Planned Unit Development District (PD) Development Standards (*Amended 1*)

Planned Unit Development District (PD) Development Standards			
Type of Standard	Development Standards		
Minimum Land Area	10 acres to qualify for any residential base zone 2 acres to qualify for any commercial/industrial base zone		
Minimum Road Frontage for District	100 Feet		
Location of Mixed Use Allowance	Residential	Commercial	Industrial
Rural Residential	X	X	
Residential Suburban	X	X	
Residential Urban	X	X	
Multi-Family	X	X	
Neighborhood Commercial	X	X	
General Commercial		X	
Highway Service		X	
Office-Business		X	X
General Industrial		X	X
Maximum Lot Coverage Square footage of all primary structures, accessory structures and impervious surface shall not exceed:	70 percent		
Open Space Requirement	15 percent (See 7.04 (I))		

Section 7.04 Planned Unit Development Standards

Planned Unit Development districts can only be created from the following zones:

RR RS RU MF NC GC HS OB GI

- A. A Planned Unit Development can be created in any of the above-mentioned districts. A planned unit development can be created once the Detailed Development Plan is approved by the Plan

Commission. The designation for a Planned Unit Development will be a two-digit PD designation. The designations for planned unit developments will be as follows: *(Amended 1)*

1. PD-RR Rural Residential will be designated to PD-RR
2. PD-RS Residential Suburban will be designated PD-RS
3. PD-RU Residential Urban will be designated to PD-RU
4. PD-MF Multi-Family will be designated to PD-MF
5. PD-NC Neighborhood Commercial will be designated to PD-NC
6. PD-GC General Commercial will be designated PD-GC
7. PD-HS Highway Service will be designated to PD-HS
8. PD-OB Office Business will be designated to PD-OB
9. PD-GI General Industrial will be designated to PD-GI

- B. No other districts can be re-zoned directly to a Planned Unit Development. An applicant may seek that a property not allowed to have a Planned Unit Development be re-zoned to a Zoning District that allows Planned Unit Development District. *(Amended 1)*
- C. An applicant seeking a specific mixed use allowance within a Planned Unit Development that is not allowed must obtain a successful re-zoning to a zoning district which the specific use is allowed before applying for a planned unit development. *(Amended 1)*
- D. No other districts can be re-zoned directly to a Planned Unit Development District. An applicant may seek that a property not allowed to have a Planned Unit Development be re-zoned to a Zoning District that allows Planned Unit Development Districts.
- E. An applicant seeking a Planned Unit Development district based on a different Base Zone must obtain a successful re-zoning request to change the existing Zoning District prior to the submission of a Planned Unit Development petition.
- F. Any applicant may propose a Planned Development District in accordance with the procedures hereinafter established. Further, the applicant making such a proposal must intend to act as developer or sponsor of the development. A parcel or site proposed for a Planned Development need not be under single ownership.
- G. However, if not under single ownership, the multiple owners must have a contractual agreement not to develop the parcels separately, but in accordance with a single, unified plan, and in which the separate owners have given their express intentions to enter into such private agreements and to assure its completion as planned to the satisfaction of the Plan Commission. The applicant seeking a Planned Unit Development designation for a proposal must intend to act as developer or sponsor of the development.
- H. Planned Unit Developments may contain mixed uses. The Planned Unit Development Standards matrix illustrates allowable mixed uses in each base district.

1. In base residential and/or multi-family zones, a proposed planned unit development may not designate in exceed 25 percent of the total proposed development gross square footage for commercial uses.
 2. In base commercial zones, a proposed planned unit development may not designate in exceed 30 percent of the total proposed development gross square footage for residential development.
 3. In base industrial zones, a planned unit development may not designate more than 40 percent of the total proposed development gross square footage for commercial development.
- I. Planned Unit Developments may contain different densities levels of residential development.
 - J. Any proposed Planned Unit Development having 25 or more acres and involving residential uses shall provide 15 percent of the total proposed development gross square footage for open space.
 - K. Planned Unit Development utilizing mixed uses shall calculate the open space requirement using the total proposed residential development gross square footage.
 - L. Planned Unit Development Open Space shall have the following requirements:
 1. The open space must be accessible to all residents and owners within the development by sidewalk and or other finished footpath.
 2. No portion of a proposed lot's front, side or rear yard(s), right-of-way, roads, streets, median strips, parking area, easements and/or sidewalks can be used to satisfy the open space requirement.
 3. No portion of any dedicated, reserved, used or in use lands for cemetery interment unless otherwise noted in this Ordinance can be used to satisfy the open space requirement.
 4. No more than 30 percent of the open space requirement can consist of wetlands, floodplain and/or steep slopes.
 5. The required open space may be used for drainage which would include:
 - a. Detention basins
 - b. Underground fields
 - c. Ponds
 - d. Lakes
 6. Open space shall have a minimum contiguous area of 7,000 square feet, and each open space area within a development shall have a minimum dimension of fifty (50) feet in width and length.
 7. At least 50 percent of the proposed open space land shall be defined as formal open space. A minimum of fifty (50) percent of the perimeter shall be bounded by right-of-way or fronted by buildings. Formal open spaces are generally planned and structured areas that include formally designed landscaped plantings. Examples include squares, plazas & parks. Formal open spaces shall be centrally located. Adjacent lots and buildings shall be oriented toward formal open spaces.
 8. A mechanism for the maintenance of said open space areas shall be provided in the protective covenants for the development.

Section 7.05 Planned Unit Development Conceptual Plan Process

The Planned Unit Development process is a three stage process involving a conceptual sketch plan, a detailed development plan and a secondary review process. Each stage is identified in the following general procedure for establishing a Planned Unit Development. These stages are as follows:

- A. Prior to the filing for a re-zone petition, the applicant must submit a conceptual sketch plan to the Planning Director. The Planning Director and/or designate will make a review of the conceptual sketch plan. The Planning Director and/or designate will review the conceptual sketch plan and will provide the applicant with comments within 30 days of conceptual sketch plan submission. No approval is given as part of this step and suggestions made by the Planning Director, County Planner, County Engineer and/or designate are advisory only and meant to assist the applicant.
- B. The following items are required as part of the Conceptual Site Plan petition. The scale of the site plan shall not exceed 1"=100'. The Conceptual Site Plan may include any additional graphics which will explain the features of the development. The following shall be included in the Conceptual Site Plan submission.
 1. Name and address of applicant
 2. Proof of Ownership
 3. Statement from multiple owners stating their willingness to abide
 4. Proposed name of development
 5. Address of the site
 6. Legal Description of the real estate
 7. Name and address of land surveyor
 8. Legend and notes, including a graphic scale, north point and date
 9. A separate location map, to scale showing the boundary lines of adjacent land use and existing zoning of the area to be developed as well as the adjacent land.
 10. Existing and proposed layout of streets, sidewalks, sanitary sewers, water lines, fire protection, storm water drainage, open space, and other basic elements of the plan.
 11. Detailed Narrative of Proposed Uses
 - a. Residential uses narrative will include total number of residential units, architectural conceptual sketch, and gross development area.
 - b. Commercial uses narrative will include specific commercial uses, number of commercial buildings, height, gross floor area and gross development area.
 - c. Industrial uses narrative will include specific industrial uses, number of industrial buildings, height, gross floor area and gross development area.
 12. Proposals for handling traffic circulation, pedestrian connectivity, parking, loading, lighting, signage, landscaping, and other pertinent development features.
 13. A general statement of the covenants to be made part of the Planned Unit Development as well as the order and estimated time of development.

14. A general statement of the proposed order of development of the major elements of the project. This includes phasing, if applicable, and the order and content of each phase.
 15. The land use categories within the development including proposed densities of said uses.
 16. A vicinity map showing the use and zoning of all properties within 1,000 feet of the property subject to the re-zoning request.
- C. A voluntary conceptual sketch plan conference may be conducted with the Planning Director and/or a designated representative and the applicant. The purpose of the conference shall be to allow the discussion by the applicant of the conceptual elements of the proposed development including characteristics of the development in terms of the relationship to existing community policies, and allow the Planning Director to define aspects of the PD classification, procedure, development standards, and policies with the applicant.
 - D. The conceptual sketch plan conference is advisory in scope only. Neither the applicant nor the jurisdiction is bounded by any decisions made during the conference.

Section 7.06 Planned Unit Development Detailed Development Plan Process

- A. Upon completion of the conceptual sketch plan process, the applicant shall file a rezone petition to the PD classification and file an application for a detailed development plan with the Plan Commission. If a subdivision plat is part of the proposed development it shall be filed at this time and shall follow those procedures set forth in the Floyd County Subdivision Control Ordinance. Any subdivision approval shall be conditioned upon the County Commissioners approval of the PD re-zone petition.
- B. The applicant will submit an application for a detailed development plan with the Plan Commission.
- C. The Detailed Development Plan shall be composed of the following elements:
 1. A site plan drawn to scale showing at a minimum of 1"=100' all existing and showing all proposed structures, setbacks, easements, rights-of way, natural streams, regulated drains, 100-year flood plains, flood ways, water courses, marshes, wooded areas, isolated preserved trees, wetlands, dry wells, utility lines, fire hydrants, historical structures and/or sites listed in the Floyd County Interim Report and any other significant feature(s) that may influence the design of the development.
 2. A letter verifying that proper waste disposal will be available to the property.
 - a. For proposals using septic systems, a letter from the Floyd County Health Department shall be provided verifying that any proposed development makes appropriate use of the septic system and will be adequately served.
 - b. For proposals using sanitary sewer systems, a letter from the service provider shall be included verifying that any proposed new development will be served and the service provider must provide the following:
 1. Present and to date average daily capacity figures
 2. All required IDEM monitoring reports for recent calendar year including any violations noted by IDEM

3. All proposed developments including estimated amounts of daily usage that the service provider has agreed to service
 4. Estimated daily use for proposed development
3. Existing and proposed easements and their purpose.
 4. Preliminary plans for handling water supply, sanitary sewers, storm water drainage system, traffic circulation, pedestrian connectivity, parking, loading, lighting, signage, landscaping, and other pertinent development features.
 5. All documents and support information provided in the conceptual site plan including any updates or amendments.
 6. Written approvals for roads and storm water drainage from County Engineer and County Surveyor
 7. Proposed covenants, conditions and restrictions
 8. Any other data or information that may be requested by the planning director and/or designate to supplement the proposal.
- D. The Plan Commission will schedule a public hearing for the re-zoning of the property and for review of the detailed development plan. The Plan Commission shall consider the proposed plan on the evaluation criteria, public hearing comments, and other pertinent facts that may apply to the proposed plan.
- E. In reviewing the proposed plan, the Plan Commission shall consider the following elements:
1. The extent of in which the proposed plan differs from the zoning and subdivision control regulations that are otherwise applicable. These differences are included but not limited to: density, lot size, height, use, required improvements, construction and design standards.
 2. The extent in which the proposed plan meets the spirit and/or intent of the Comprehensive Plan and any other adopted plans, development policies, and development objectives.
 3. The Planned Unit Development design and to the extent it which it makes adequate provision for public services, light and air, traffic control, open and/or common space, and recreation.
 4. The compatibility of the proposed plan with adjacent properties and surrounding neighborhood.
 5. Whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and surrounding neighborhood.
 6. The proposed plan will not diminish level of service for roadway system in vicinity or providing primary service to the proposed development.
 7. The proposed plan can immediately and adequately be served by existing public facilities and services.
 8. The proposed plan preserves natural and historic resources to the extent possible.
 9. The proposed plan will not be injurious to the public health, safety and general welfare.

- F. The Plan Commission may permit or require written commitments concerning the use or development of the property in connection with a favorable recommendation of the re-zoning request or detailed development plan approval of the planned development.
- G. The Plan Commission shall certify the proposed petition with a favorable recommendation, an unfavorable recommendation or no recommendation to the County Commissioners to grant or deny the re-zoning request.
- H. The applicant may revise the application if the plan commission gives an unfavorable recommendation. The applicant may submit a revised detailed development plan within 30 days to the Plan Commission.
- I. The County Commissioners will review the re-zoning petition within 90 days of receipt of the Plan Commission's recommendation certification. The County Commissioners may vote to approve or disapprove the request in accordance with Indiana Code.
- J. The County Commissioners shall provide notification of action on the zoning map amendments consistent with Indiana State code.
- K. If the County Commissioners disapproves the rezoning, the applicant must wait 1 year before resubmitting another petition.
- L. The County Commissioners may either approve or deny the zoning map amendment. If the Commissioners fail to act within the 90 day timeframe specified above, the ordinance shall become effective or be defeated in accordance with the provisions of Indiana Code 36-7-4-608.
- M. Upon approval by the County Commissioners, the land is officially rezoned.
- N. The official Zoning Map must be amended to reflect the zoning change, date of approval by the County Commissioners and the Plan Commission docket number. Prior to signing of the detailed development plan surety, the developer shall post surety in an amount that is consistent with the cost of improvements outlined in the approved improvement plans.
- O. Detailed development plan approval by the Plan Commission is required prior to the issuance of an Improvement Location Permit. If a subdivision plat is required, the final plat must be approved prior to the issuance of an Improvement Location Permit pursuant to Floyd County Subdivision Control Ordinance.
- P. When approved, the detailed development plan shall be stamped and signed by the Plan Commission President and Planning Director.
- Q. All written commitments shall be recorded with the Floyd County Recorder and must clearly state that they are enforceable by, as a minimum, the Plan Commission.

Section 7.07 Secondary Approval

Upon adoption of the Planned Unit Development ordinance by the County Commissioners, the Planned Unit Development shall be returned to the Plan Commission for Secondary Review. The purpose of the Secondary Review is to finalize development details of the Planned Unit Development district and accompanying documentation.

A. The application shall consist of the following elements:

1. The detailed development plan submitted as set forth in section 7.06 of this article
 2. Covenants and written commitments made as part of the proposal
 3. Performance and/or maintenance guarantees
 4. Location of all utility lines and easements
 5. Detailed plans for handling water supply, sanitary sewers, storm water drainage system, traffic circulation, pedestrian connectivity, parking, loading, lighting, signage, landscaping, and other pertinent development features.
 6. Any other supporting documentation as requested by either the County Commissioners and/or Plan Commission
- B. The Plan Commission shall conduct a Secondary Approval hearing through a legally advertised meeting of the commission. No public hearing is required as part of the secondary approval process.
- C. The detailed site development plan and all supporting documentation shall conform to the Planned Unit Development ordinance as approved by the County Commissioners.
- D. Upon determination that the Secondary Review is consistent with the approved Planned Unit Development Ordinance and all supporting materials and documentation are determined to be acceptable, the Plan Commission shall confer Secondary Review status.
- E. Two copies of the Secondary approved PD shall be permanently retained in the offices of the Plan Commission.
- F. Unless otherwise noted in the Planned Unit Development Ordinance, the Secondary Review shall be submitted to the Plan Commission not more than 18 months following the County Commissioners approval of the Planned Unit Development Ordinance. The Secondary Review may be submitted in and approved in phases if such a process is approved in the Planned Unit Development Ordinance.
- G. Secondary Review shall expire 18 months after approval, unless improvement permits have been obtained and are still current and valid on that date. This rule shall also apply to each phase of a Planned Unit Development approved in phases.
- H. No permit of any kind shall be issued for any purpose within a Planned Unit Development except in accordance with the Secondary Review.

Section 7.08 Minor Modification

The Planning Director may from time to time in its administration of the Planned Unit Development, approve minor modifications of the Development Plan or Improvement (construction) Plans, without a public hearing in a manner consistent with the purpose or intent of the overall development. Such modifications shall not include any increase in density, any reduction in aesthetic treatment, any alteration of frontage, any change in type of use, or change in access points.

An adversely affected party may appeal any decision by the Planning Director to the Plan Commission within 30 days of the determination. The Plan Commission has the authority to establish rules governing the nature of the proceedings and notice required to make a modification under this Section.

Section 7.09 Covenants and Maintenance

Covenants, when required by the Plan Commission, shall be set forth in detail. Covenants required by the Plan Commission shall provide that their benefits can be specifically enforceable by the Plan Commission. An executed recorded copy shall be provided to and maintained in the Plan Commission office.

Adequate provision shall be made for a private organization (i.e. Owners Association) with direct responsibility to and control of the property owners involved to provide for the operation and maintenance of all common facilities if such facilities are a part of the Planned Unit Development, and, in such instance legal assurances shall be provided which show that the private organization is self-perpetuating. Owner's association shall be formed with 12 months of start of construction or when 51 percent of the units have been sold.

All common facilities not dedicated to the public shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at times to vehicular traffic so that fire, police, health, sanitation and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

Section 7.10 Recording

All approved covenants, commitments, plats, and modifications thereof shall be recorded in the office of the Floyd County Recorder Office. The developer shall provide 2 copies of the recorded documentation to the Plan Commission for its records.

Section 7.11 Construction

No construction or installation work may commence on any public improvement until satisfactory improvement plans and specifications have been submitted and approved by the Plan Commission and until the applicant provides at least 48 hours notice to the County Engineer in order that inspections may be made as the work progresses.

Section 7.12 Extension, Abandonment and Expiration

Any extension may not exceed 12 months for any matter set forth in this Article. The Plan Commission shall grant any extension based on documentation presented by the developer and must show good cause for the need of such extension.

Upon abandonment of a development authorized under this Article, the land will revert back to its original base zone classification. An abandonment shall be deemed to occur when no or minimal improvements have been made pursuant to the approved detailed development and improvement plans for 9 consecutive months or upon the expiration of 3 years from the approval of the detailed development and improvement plans for a development which has not been completed.

Section 7.13 Rules of Procedure

All proceedings brought under this Section are subject to the Rules of Procedure of the Plan Commission where not described otherwise herein.

Section 8.01 Steep Slope Overlay District

The Steep Slope (SD) Overlay District applies to all zoning districts within the jurisdiction of the Floyd County Plan Commission. The purpose of the Steep Slope Overlay District is to regulate development activities in steep slope areas and mitigate any adverse effects such development might produce on slopes and ridgelines. It is the express purpose of this section to provide qualitative development standards and review process for all lands defined as steep slopes and ridgelines located within the jurisdiction of the Floyd County Plan Commission. The special development standards are provided to mitigate the potentially negative impacts of construction in steep slope areas in the areas of erosion, siltation, excessive removal of vegetation and soil, flooding, soil slippage, water run-off, unique natural land forms, and scenic vistas.

The Steep Slope District is an overlay district that includes all areas in the Floyd County Plan Commission jurisdiction with slopes 20 percent or more. The requirements and regulations of the underlying zoning districts shall continue to apply to the extent they are not inconsistent with the provisions of this section.

- A. When there is a dispute regarding the steepness of slope on an application, and the applicant has not provided a plan with slope certification, the Plan Commission shall require the applicant to submit a plan certified by a qualified surveyor or engineer licensed to practice in the State of Indiana.
- B. A steep slope is defined as the ratio of elevation change to horizontal distance expressed as a percentage. Slope is computed by dividing the vertical distance (rise) by the horizontal distance (run) and multiplying the ratio by one hundred. A steep slope is a slope of 20 percent or greater over any 100 foot segment prior to cut and fill.
- C. Independent consultants may be retained by the Plan Commission to seek assistance in the review of the requirements of the overlay district. If a proposed development requires under this section a geotechnical study, the petitioner shall be advised of the fees associated with the review and may withdraw their request for consideration at that time. All required fees with any applicable Plan Commission must be paid regardless of whether the proposed development is approved, amended, rejected or withdrawn. A fee schedule is included in Appendix D.
- D. Ridgelines are defined as occurring in the County where a slope greater than 33 percent changes to less than 33 percent over any 100 foot segment prior to cut and fill at area with an elevation of 775 feet or greater. The determination of the presence of a ridgeline shall be done on a map provided by the applicant with topography depicted at 10 foot contour intervals.
- E. Applicants for construction on properties to which section 8.01 (D) applies shall demonstrate to the Plan Commission that a 50 foot non-disturbance buffer zone has been designated. No primary or accessory structures shall be located closer than 50 feet to the ridgeline.

Section 8.02 Slopes 20 percent to 33 percent

The following information shall be provided for any application proposing development on a lot or parcel that includes a slope measuring 20 percent to 33 percent.

- A. A detailed site analysis of soil conditions;
- B. A detailed site analysis of hydrology;
- C. A detailed site analysis of bedrock conditions and;

- D. A detailed site analysis of any other engineering and environmental considerations as may be required by the Plan Commission in order to determine whether the proposed development will create a threat to the public health, safety, and general welfare or cause land subsidence, erosion or increases the volume of storm water entering adjoining properties.
- E. Upon the submission and review of a report by a certified soil or geotechnical engineer and/or certified geologist indicating that the steep slope may be safely developed, the Plan Commission may approve the development if the developer agrees to hold the Plan Commission and the County harmless from any claims of damage due to the approval of such development.

Section 8.03 Slopes in excess of 33 percent

- A. All development activity shall be prohibited within slopes measuring in excess of 33 percent except as noted below.
 - 1. Forestry using best management practices as defined by the Indiana Department of Natural Resources, wildlife conservation areas and nature preserves
 - 2. Parks and passive recreational uses

Section 8.04 Construction Techniques

Construction activities on slopes greater than 20 percent shall comply with the following:

- A. All cut and fill slopes shall not exceed a three to one ratio. No construction shall take place until a certification of a certified soil or geotechnical engineer and/or certified geologist stating that the slope will remain stable under foreseeable conditions.
- B. Any certification that delineates any specific measures deemed necessary by a certified soil or geotechnical engineer and/or certified geologist must be implemented during the development phase.
- C. If development is allowed to proceed under the previous subsection, no more than 30 percent of such areas shall be developed and/or re-graded or stripped of vegetation.
- D. Exposed soil that is not under continuous construction shall be re-vegetated with temporary or permanent vegetation so that the soil is not left exposed following issuance of a Certificate of Occupancy, vegetation shall be re-established. If irrigation is not provided, then the exposed soil shall be planted with species which can survive without irrigation. Vegetative cover or any alternative cover shall be maintained in perpetuity.

Section 8.05 Highlander Point and Edwardsville Gateway Overlay Districts

The purpose of the Highlander Point and Edwardsville Gateway Districts is to promote and protect the public health, safety, comfort, convenience, and general welfare by providing for consistent and coordinated treatment of the properties located along State Road 150 and State Roads 64/62 to Interstate 64. This overlay district is intended to serve as a tool for implementing the development policies and guidelines set forth in the County's Comprehensive Plan. These two corridors are premier commercial and office locations, employment centers, whose viability, quality and character are important to the community as a whole.

Coordinated development and the establishment of high standards for buildings, landscaping, and other improvements are highly encouraged in this area. The Gateway Districts shall also provide a special sense of place that will increase property values, protect real estate investment, spur commercial and employment activities, and attract new businesses. The creation of a special sense of place shall be encouraged by means of a coordinated set of design principles for buildings, site planning, landscaping and signage.

A. The two gateway overlay districts are designated as the following:

1. HP – Highlander Point –US 150 Gateway
2. ED – Edwardsville Gateway

B. Location of the districts. The following are description of the two Gateway Districts.

1. Highlander Point Gateway District

Beginning at the Interstate 64 exit 119 (Greenville exit), proceeding 2,640 feet west parallel with the Interstate 64 right of way to a point, then proceeding north approximately 18,500 feet parallel with the US 150 right of way to the center point of Little Indian Creek , then proceeding north east 5280 feet following the center point of Little Indian Creek to a point, then proceeding southeast parallel with the US 150 right of way approximately 18,500 feet to a point, the proceeding west 2,640 feet parallel with the Interstate 64 right of way to the point of origin.

2. Edwardsville Gateway District

Beginning at the centerline of Oakes Road and proceeding north 2,640 feet north to a point, then proceeding approximately 7,000 feet east parallel with State Road 64 right of way to a point, then proceeding southeast parallel with State Road 62 right of way approximately 5400 feet to a point, then proceeding approximately 2,900 feet west to the centerline of Old Corydon Ridge Road, then proceeding approximately 2500 feet west to centerline of Yenowine Lane, then proceeding north along centerline of Yenowine Lane approximately 2700 feet to the centerline of Old Georgetown Road, then proceeding west along centerline of Old Georgetown Road to the intersection of State Road 64, proceeding northwest 300 feet to the centerline of Oakes Road being the point of origin.

Section 8.06 Development Requirements for Gateway Overlay District(s)

The Development Review has been designed to guide development activities within areas considered unique to the County such as the Highlander Point and Edwardsville Gateway Districts. These development activities should contribute to the unique characteristics of Floyd County and provide for innovative design of higher intensity developments to ensure compatibility of these uses with existing uses. The site development review process has been developed to minimize negative aspects of commercial development such as strip development, excessive signage, and access points.

A. All proposed commercial, industrial, and multi-family developments in the Highlander Point and Edwardsville Gateway Districts require a development plan review as defined in Article Nine of this Ordinance.

- B. All proposed residential development over 25 acres in the overlay districts shall reserve 15 percent of the total gross square footage of the proposed development for open space.
- C. The open space shall follow the following requirements.
1. No portion of a proposed lot's front, side or rear yard(s), right-of-way, roads, streets, median strips, parking area, easements, buffer yards and/or sidewalks can be used to satisfy the open space requirement.
 2. The open space must be accessible to all residents and owners within the development by sidewalk and or other finished footpath.
 3. Open space shall have a minimum contiguous area of 7,000 square feet, and each open space area within a development shall be a minimum dimension of 50 feet in width and length.
 4. At least 50 percent of the proposed open space land shall be defined as formal open space. A minimum of 50 percent of the perimeter of formal open space shall be bounded by right-of-way or fronted by buildings. Formal open spaces are generally planned and structured areas that include formally designed landscaped plantings. Examples include squares, plazas & parks. Formal open spaces shall be centrally located. Adjacent lots and buildings shall be oriented toward formal open spaces.
 5. No portion of any dedicated, reserved, used or in use lands for cemetery interment unless otherwise noted in this Ordinance can be used to satisfy the open space requirement.
 6. No more than 10 percent of the open space requirement can consist of wetlands, floodplain and/or steep slopes.
 7. The required open space may be used for drainage which would include:
 - a. Detention basins
 - b. Underground fields
 - c. Ponds
 - d. Lakes
 8. A mechanism for the maintenance of said open space areas shall be provided in the protective covenants for the development.
- D. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicyclist. Traffic calming features shall be used to encourage slower traffic speeds in these areas. The following standards apply within the district.
1. A Traffic Impact Study shall be warranted for any proposed development that exceeds 750 annual trips in a 24 hour period as determined by the latest edition of the ITE Trip Generation Manual for the proposed use. The required study shall follow the format set forth in the Floyd County Subdivision Control Ordinance Appendix E.
 2. Traffic calming features shall consist of curb extensions, traffic circles, and medians to encourage slower traffic.

3. Parking in commercial areas should be oriented to the rear and side of a building.
 4. Access for service vehicles should provide a direct route to service and loading areas while avoiding unnecessary movement through parking areas.
- E. Building facades shall consist of a variety of architectural features and building materials to encourage distinct character for a building or group of buildings. The following standards apply within the district.
(Amended 1)
1. The primary building facade material shall be brick, natural or cut stone, or a masonry material. The plan commission may consider alternative façade material. Aluminum siding, enameled steel, and non-decorative concrete masonry block are prohibited in commercial and multi-family districts.
 2. The architectural features, materials, and the articulation of a façade of a building shall be continued on all sides visible from a public street.
 3. For commercial and industrial buildings, a minimum of 50 percent of the front façade on the ground floor shall be transparent consisting of windows or door openings.
- F. Landscaping shall complement the scale of the development and its surroundings. In general, larger well-placed contiguous plantings areas shall be prefer to smaller disconnected areas. The following standards apply within the overlay districts:
1. A minimum of one deciduous tree per 20 feet shall be placed along street frontage
 2. All deciduous trees must be at least 2 inches caliper measured by the American Nursery Institute standards at 6 inches above the root ball
 3. Trees shall be encouraged to be located between sidewalk and curbs, within a landscaped median, or tree wells in commercial areas.
 4. Landscaping in parking areas shall meet the standards set forth in this ordinance.
- G. Pedestrian and bicycle circulation shall be designed to minimize pedestrian-motor vehicle conflicts. The following standards apply for residential and commercial areas in the overlay districts:
1. Sidewalks shall be 6 feet in width
 2. Sidewalks shall be place on both sides of the street
 3. Sidewalks shall comply with the applicable requirements set forth in the Americans with Disabilities Act.
 4. Crosswalks shall be clearly defined and marked.
 5. Bicycle lanes should be encouraged and be 4 feet and striped when located on a subdivision street.

- H. All uses which are permitted in the underlying base zone district(s) except those that are expressly excluded in section 8.06 (I) are permitted in the Gateway Districts.
- I. The following uses are not permitted in the Highlander Point and/or the Edwardsville Gateway District(s).
 - 1. Adult Business(es)
 - 2. Confined Feeding Operation(s)
 - 3. Junk Yard(s)
 - 4. Mini-Warehouse(s) or self-storage facilities(s)
 - 5. Reclaiming processes involving materials or chemicals that are considered dangerous to the health, safety and welfare of the general public as determined by the State Board of Health or by the Floyd County Board of Health
 - 6. Sand and gravel extraction or sales
 - 7. Sanitary Landfill(s)
 - 8. Off-premise signage/billboard(s)
 - 9. Any other uses excluded by the underlying primary zoning district

Section 9.01 Development Review Standards

The purpose of these regulations is to encourage innovative and creative design within the spirit and intent of the Comprehensive Plan and this Ordinance in areas with special characteristics and opportunities. Through development review standards, the community can ensure and maintain its rural character while allowing for higher intensity uses.

Section 9.02 Zone Districts Requiring a Development Plan

A. A development plan is required if a development is proposed in the following districts:

1. Manufactured Home Park (MH)
2. Highlander Point Gateway District (HP)
3. Edwardsville Gateway District (ED)
4. Residential Urban (RU) as defined under Indiana Code (*Amended 1*)
5. Multi-Family (MF)
6. Neighborhood Commercial (NC)
7. General Commercial (GC)
8. Highway Service (HS)
9. Office-Business (OB)
10. General Industrial (GI)

Section 9.03 Development Plan Requirements

The following Development Plan Requirements are for the following districts.

MF	MH	NC	GC	HS	OB	GI
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- A. The applicant must file an application for Development Plan Review. The Plan Commission must review the development plan.
- B. All proposed Multi-Family developments over 10 acres shall reserve 10 percent of the total gross square footage of the proposed development for open space.
- C. The open space shall follow the following requirements.
 1. No portion of a proposed lot's front, side or rear yard(s), right-of-way, roads, streets, median strips, parking area, easements, buffer yards and/or sidewalks can be used to satisfy the open space requirement.
 2. The open space must be accessible to all residents and owners within the development by sidewalk and or other finished footpath.
 3. Open space shall have a minimum contiguous area of 7,000 square feet, and each open space area within a development shall be a minimum dimension of 50 feet in width and length.
 4. No portion of any dedicated, reserved, used or in use lands for cemetery interment unless otherwise noted in this Ordinance can be used to satisfy the open space requirement.

5. No more than 30 percent of the open space requirement can consist of wetlands, floodplain and/or steep slopes.
 6. The required open space may be used for drainage which would include:
 - a. Detention basins
 - b. Underground fields
 - c. Ponds
 - d. Lakes
 7. A mechanism for the maintenance of said open space areas shall be provided in the protective covenants for the development.
- D. Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicyclist. Traffic calming features shall be used to encourage slower traffic speeds in these areas. The following standards apply.
1. A Traffic Impact Study shall be warranted for any proposed development that exceeds 750 annual trips in a 24 hour period as determined by the latest edition of the ITE Trip Generation Manual for the proposed use(s). The required study shall follow the format set forth in the Floyd County Subdivision Control Ordinance Appendix E.
 2. Traffic calming features shall consist of curb extensions, traffic circles, and medians to encourage slower traffic.
 3. Access for service vehicles should provide a direct route to service and loading areas while avoiding unnecessary movement through parking areas.
- E. Landscaping shall complement the scale of the development and its surroundings. In general, larger well-placed contiguous plantings areas shall be prefer to smaller disconnected areas. The following standards apply within the district.
1. Trees shall be encouraged to be located between sidewalk and curbs, within a landscaped median, or tree wells in commercial areas.
 2. Landscaping in parking areas shall meet the standards set forth in this ordinance.
- F. Pedestrian and bicycle circulation shall be designed to minimize pedestrian-motor vehicle conflicts. The following standards apply:
1. Sidewalks shall be 6 feet in width
 2. Sidewalks shall comply with the applicable requirements set forth in the Americans with Disabilities Act.
 3. Crosswalks shall be clearly defined and marked.
 4. Sidewalks within parking areas shall conform to the requirements set forth in this Ordinance

- G. Building facades shall consist of a variety of architectural features and building materials to encourage distinct character for a building or group of buildings. The following standards apply within the district. (*Amended 1*)
1. The primary building facade material shall be brick, natural or cut stone, or a masonry material. The plan commission may consider alternative façade material. Aluminum siding, enameled steel, and non-decorative concrete masonry block are prohibited in commercial and multi-family districts.
 2. The architectural features, materials, and the articulation of a façade of a building shall be continued on all sides visible from a public street.

Section 9.04 Highlander Point and Edwardsville Gateway District Development Plan Requirements

- A. All proposed multi-family, commercial, and industrial developments as defined in this Ordinance in the Highlander Point and Edwardsville Gateway Districts requires the submission of a development plan review.
- B. The applicant is required to provide the following information at the time of application for a development plan approval in these districts.
1. Site Plan
 2. Sign Plan
 3. Lighting Plan
 4. Landscape/Buffer Yard Plan
- C. In order to receive development plan approval, the applicant must satisfy all of the development standards of the district. In addition, the following development standards apply.
1. All signage must be designed to create a unified and consistent sign package for the development.
 2. The design and location of street access points must minimize congestion. The entrances, streets, and internal traffic facilities must be compatible with existing and planned streets in adjacent developments.
 3. The design and layout of the development must have a clear circulation pattern that is sensitive to topography and other natural features.
 4. The design of the proposed development plan must provide adequate pedestrian connections within the development and safe street crossings to adjacent land uses. This includes sidewalk(s) along an adjacent street(s). The Plan Commission may determine that an alternative to sidewalk(s) along adjacent street(s) better serves the purpose of connecting commercial destinations.
 5. All lighting must be designed to create a unified and consistent lighting package for the development. The lighting standards in parking areas shall not exceed 20 feet in height. All lighting shall follow the requirements set forth in Article 13 of this Ordinance.
- D. The applicant may request a wavier of development requirements. The applicant must show a preponderance of evidence that the wavier of the requirements meets the spirit and intent of the Comprehensive Plan and is consistent with the intent of the Gateway Districts.

- E. The Plan Commission must make written findings concerning each decision to approve or disapprove a development plan. To approve a development plan in this district, the Plan Commission must find that the proposed development plan:
1. Is consistent with the Comprehensive Plan
 2. Is consistent with the intent of the Highlander Point or Edwardsville Gateway District;
 3. Satisfies the development requirements specified in this Article.

Section 9.05 Development Plan Process

- A. The applicant is required to provide the following information at the time of application for a development plan approval in these districts.
1. Site Plan
 2. Sign Plan
 3. Lighting Plan
 4. Landscape/Buffer Yard Plan
- B. In order to receive development plan approval, the applicant must satisfy all of the development standards of the district. In addition, the following development standards apply.
1. The proposed development must be compatible with surrounding land uses and is not in conflict with surrounding uses. The availability and coordination of water, sanitary sewer, storm water drainage and other utilities has been established by the applicant. *(Amended 1)*
 2. All signage must be designed to create a unified and consistent sign package for the development. *(Amended 1)*
 3. The design and location of street access points must minimize congestion. The entrances, streets, and internal traffic facilities must be compatible with existing and planned streets in adjacent developments. The capacity of adjacent streets and highways must be sufficient to safely and effectively accept traffic that will be generated by the new development. *(Amended 1)*
 4. The design and layout of the development must have a clear circulation pattern that is sensitive to topography and other natural features. *(Amended 1)*
 5. The design of the proposed development plan must provide adequate pedestrian connections within the development and safe street crossings to adjacent land uses. This includes sidewalk(s) along an adjacent street(s). The Plan Commission may determine that an alternative to sidewalk(s) along adjacent street(s) better serves the purpose of connecting commercial destinations. *(Amended 1)*
 6. All lighting must be designed to create a unified and consistent lighting package for the development. The lighting standards in parking areas shall not exceed 20 feet in height. All lighting shall follow the requirements set forth in Article 13 of this Ordinance. *(Amended 1)*

7. All parking must be designed to create a unified and consistent parking package for the development and surrounding area. Shared parking facilities with commercial centers shall be considered if appropriate. (*Amended 1*)
- C. The Plan Commission must make written findings concerning the decisions to approve or disapprove a development plan. In order to approve a development plan in these districts, the plan commission must find that the proposed development plan:
1. Is consistent with the Comprehensive Plan
 2. Is consistent with the intent of the District as set forth in this ordinance
 3. Satisfies the development requirements specified in this Article.

Section 9.06 Development Plan Approval Process

Each proposed development that requires the filing of a development plan will follow this approval process. The following Development Plan Requirements are for the following districts and overlay districts.

RU MF MH NC GC HS OB GI HP ED

- A. The applicant is encouraged to submit a conceptual site plan to the Planning Director and/or designate for an informal conference to discuss the existing conditions of the site and the proposed development. No approval is given as part of this step and suggestions made by the Planning Director, County Planner, County Engineer and/or designate are advisory only and meant to assist the applicant.
- B. No later than 15 days after the Planning Director and/or designate has received the conceptual site plan and other data, the Planning Director and/or designate will return a copy of plan to the applicant with recommendations.
- C. All Primary Development Plan application shall:
 1. Be filed at least 30 days prior to the initial public hearing at which they are to be considered by the Plan Commission.
 2. Include all relevant plan and documentation as set forth below
- D. Description of Ownership
 1. Name and Address of Applicant
 2. Proof of Ownership
 3. Proposed Name of Development
 4. Address of Site
 5. Legal Description of the real estate
 6. Name and Address of land surveyor
 7. Legend and notes, including a graphic scale, north point, and date.
- E. Existing and Proposed Conditions
 1. Boundary line of site indicated by a solid heavy line including all dimensions of the site.
 2. Layout, number and dimension of lots.
 3. Building setback lines.

4. Location and dimension of all existing structures including paved areas.
5. Location and dimension of all proposed structures including paved areas indicated by crosshatching.
6. Layout of existing and proposed streets, alleys, and access easements; including their names within 200 feet of the development.
7. Location of any proposed and existing driveway and its width at the lot line.
8. All proposed improvements to the street system both on and off site.
9. Parcels of land proposed to be dedicated or temporarily reserved for public use or set aside for use in the development such as parks, recreation, conservation areas, wetlands, etc., which shall be labeled as such including dimensions.
10. Location of natural streams, regulated drains, 100 year floodplains, floodways, water courses, marshes, wooded areas, wetlands, historic structures, sites and buildings, utility lines, existing structures, fire hydrants, and any other significant feature(s) that may influence the design of the development.
11. Location, width and purpose of existing and proposed easements.
12. Use of each structure including parking labeled with approximate density or size.
13. Structures designated to be razed shall be included and noted.
14. Distance of all structures including parking from front, rear and side lot lines. This distance is measured from the point where the structure is closest to the lot line.
15. Proposed Sign Plan shall include:
 - a. A site plan indicating the location of any existing and proposed freestanding or ground sign.
 - b. Elevations of proposed signs including size, materials, color and illumination details.
 - c. Placement, size, color, and illumination of any existing or proposed wall, projecting or window sign.
 - d. Any other information requested in writing by the Plan Commission or the Planning Director.
16. Proposed Lighting Plan submitted in pursuit of development plan approval shall include the following information.
 - a. Location and dimensions of all existing and proposed structures, parking areas, etc...
 - b. Type and location of all exterior lighting fixtures, including wattage and type of light
 - c. Intensity of lighting at base of light structure and at the lot line measured in foot candles. Measurements shall be given as if the light meter were facing the center of the property at a height of 6 feet.
17. Proposed Landscape/Buffer Yard Plan submitted in pursuit of development plan approval shall include the following information.
 - a. Location and dimension of all existing and proposed structures, parking areas, etc.
 - b. Location of floodway and all floodway fringe areas within the site.
 - c. Existing elevations and proposed contour lines at 2 foot intervals
 - d. Proposed sidewalk or pedestrian ways
 - e. Size, species and spacing(or center) of all proposed landscape and Buffer Yard materials
 - f. Location of any existing and proposed freestanding or ground signs

- g. Estimated cost of proposed landscaping berms, walls, acceleration-deceleration lanes, bypass lanes, other public improvements or any other site improvement required by the Plan Commission
 - h. Any other information requested in writing by the Plan Commission or Planning Director
- F. Development plan petitions shall undergo drainage review through the County Engineer and County Surveyor's Office prior to the development plan approval and the Plat Review Committee shall review petition regarding compliance aspects of this article.
- G. Any development plan approval the Plan Commission approves shall comply with requirements set forth in Indiana Code for public hearing.
- H. The Plan Commission shall either approve or disapprove the proposed development plan.
- I. The applicant may amend the development prior to the vote of the Plan Commission. If the Plan Commission feels the proposed amendment needs additional time for review; the Plan Commission may continue the consideration until the next Plan Commission Meeting. If the Planning Director and/or designate feels that the proposed amendments needs additional time for review; the amended development plan may be considered a new filing and reviewed within the time frame set forth above for review of the development plans by the Planning Director.
- J. The Plan Commission may impose conditions or require written commitments as a condition of approval if they are reasonably necessary to satisfy the development requirements specified in this Article.
- K. The Plan Commission may provide that an approval of a development petition is conditional on the applicant/developer furnishing a surety that guarantees the timely completion of a proposed public improvement in the development plan petition.
- L. The Plan Commission shall make written findings concerning each decision to approve or disapprove a development plan. The Planning Director is responsible for signing written findings of the Plan Commission.

Section 9.07 Modifications

- A. Minor modifications to an approved development plan may be approved by the Planning Director if the modification is in the spirit and intent of the overall development and does not involve:
 - 1. An increase in height, area, bulk, or intensity of land uses
 - 2. the designation of additional land uses
 - 3. the reduction of buffer yards
 - 4. the addition of driveways or access points
 - 5. the reduction of parking for any use
- B. The Planning Director shall report in writing to the Plan Commission the authorized minor modifications. Any interested party may appeal a decision of the Planning Director regarding the minor modifications of an approved development plan to the Plan Commission within 30 days of the decision.

Section 10.01 Miscellaneous Development Standards

The following miscellaneous development standards are designed for the following uses. Following the intended purpose of the county's comprehensive plan that "development, redevelopment or changes in the use of land within Floyd County shall be considered on its immediate and future impact on the public health, safety, welfare, population density, and whether the proposed development furthers the interests of the Comprehensive Plan, this section sets forth the requirements for the below listed uses.

For uses not listed in this section, or not listed in the land use matrix for this Ordinance, the development standards of the District which the use is located shall apply.

- A. Minimum Lot Area for Restricted Uses. A lot on which one of the following uses is located may not be smaller in area than the area prescribed for that use on the following table. For uses not listed, the requirements of the District in which the uses are located shall apply.

Use	Minimum Lot Area
Cemetery	5
Commercial Kennel	5
Confined Feed Operation	40
Golf Driving Range	3
Junk Yard	20
Liquefied Petroleum Gas, Bottled Gas Dealers	3
Sanitary Landfill (Private or Publicly Owned)	80
Warehouse	5

- B. Setbacks for Restricted Uses. The following uses are subject to special setbacks, which shall include the necessary buffer yards, prescribed by the following table (in feet). If a use does not appear, or if a figure does not appear for a particular use, the standard setback and buffer yard for the District shall apply.

Use	Front Yard	Side Yard	Rear Yard
Commercial Kennel	50	50	50
Junk Yard	300	300	300
Liquefied Petroleum Gas, Bottled Gas Dealers	100	100	100
Sanitary Landfill (Private or Publicly Owned)	300	300	300
Warehouse	100	100	100

- C. Minimum Distance between Restricted Use and Residential Dwelling. The following use may not be located closer to residential dwelling as defined by this Ordinance than 1,320 feet which will include all necessary buffer yards. This distance shall be measured from the property line of the following use to the residential dwelling. Similarly, residential development shall not be placed closer than the distance listed in the table below.

Restricted Use	Distance Separation from Residential Districts
Junk Yard	1,320 Feet

- D. Residential Facilities for the developmentally Disabled (A) defined in this ordinance shall have the following conditions set forth. No two residential facilities shall be within 3,000 feet of one another in the Floyd County Plan Jurisdiction as stated in Indiana Code.
- E. Subdivision lots shall be controlled by the provisions stated within the ordinance except to the extent that a subdivision qualifies for density bonuses as defined in the Subdivision Control Ordinance. Density bonuses may alter the depth of a lot, but shall not alter the minimum road frontage required by the base district.
(Amended 1)
- F. Confined Feed Operation (CFO) or Concentrated Animal Feeding Operation (CAFO) shall have the same definition as the one defined in Indiana Administrative Code. An applicant shall meet the following conditions as set forth in this section below:
- a. A proposed CFO or CAFO conditional application shall provide from the appropriate State or County agency all pertinent permitting information.
 - b. A CFO or CAFO must meet the following setbacks:
 - i. The CFO or CAFO waste management system shall not be within 300 feet from any county right of way.
 - ii. The CFO or CAFO waste management system shall not be within 200 feet from any property line.
 - iii. Maximum required separation distance for a CFO and CAFO will be 1000 feet from an existing residence excepting when the residence is related to the farm operation. The separation distance from a residence is measured from closest residential exterior wall to the closest exterior wall of the livestock housing structure.
 - iv. A reduction of the maximum separation distance for existing residences shall be allowed up to and not to exceed 250 feet of the following odor technologies are employed.
 - 1. Diet formulation
 - 2. Shelterbelts
 - 3. Windbreaks Walls
 - 4. Reducing manure loading rates for lagoon
 - 5. Other strategies approved by the Purdue Agricultural Air Quality Laboratory
 - c. No conditional use permit shall be issued if the applicant has a current interest , or owned an interest at the time of violation, of a CFO or CAFO that incurred a final judgment in an administrative, civil, or criminal enforcement action if that violation:
 - i. Result in a discharge and release of manure that crossed a property;
 - ii. was not corrected immediately or within a reasonable time frame as specified in a written notification of the violation by an Indiana Department of Environmental Management (IDEM) representative or comparable local, state, or federal regulatory agency; and

iii occurred within the five years prior to the conditional application submittal

10.02 Wastewater Treatment Plant

In considering an application for a Conditional Use for the location of a Wastewater Treatment Plant, the Plan Commission shall consider and be guided by the following:

- A. The safe and sanitary collection, treatment, and disposal of sewage, as by a properly designed, constructed, and maintained Sewage Treatment Plant of appropriate size, in a manner so as not to pollute the ground, air, or water with improperly or inadequately treated sewage or with noxious or offensive gases or odors is deemed to substantially serve the public convenience and welfare. A proposed plant which is of the latest design generally accepted and approved by those governmental entities having jurisdiction as of the commencement of construction, which is in conformity with the terms and provisions of this ordinances and the Floyd County Subdivision Control Ordinance, is deemed to satisfy this guideline.
- B. A proposed plant having the minimum capacity specified by this ordinance; which is designed so as to be expanded as herein provided; and, which is to be located not closer than ½ mile to an existing wastewater treatment plant (whether privately or publicly owned and/or operated), is deemed to satisfy this guideline, even though only a single subdivision or development will be initially served. The proliferation of Wastewater Treatment Plants of small capacity or which are intended to serve but a single subdivision is found to be inconsistent with the achievement of the most cost efficient and environmentally sound waste disposal system for Floyd County, and is in contravention of the goals and policies of the Comprehensive Plan for Floyd County.
- C. Determination: In determining whether to approve or disapprove an application for a conditional use permit for a wastewater treatment plant, the Board shall be governed by the following:
 - 1. The capacity of the proposed Plant shall not be less than 40,000 gallons per day, and the tract upon which the treatment plant is to be located shall be of sufficient size to permit reasonable expansion of the facility and the replacement of same, or its major components, without interrupting operations. Unless otherwise demonstrated by the applicant, it shall be presumed that the capacity of the plant and its footprint shall be increased to a minimum 100,000 gallon per day capacity (hereinafter "Expanded Plant").
 - 2. If a proposed Plant has an initial planned capacity of 100,000 gallons per day or more, the Plant shall have the capacity to expand by 100 percent from the initial planned capacity.
- D. The applicant shall file with the Board of Zoning Appeals a site/development plan disclosing the location of the following:
 - 1. The Expanded Plant and all associated structures and improvements on the tract with setback from the front, rear, and side lines of not less than 50 feet, utility services and easement, and the entrance to the tract and the access roadway. This plan shall be accompanied by a narrative describing each structure to be located on the tract and its function; the Services to be provided; the area included or to be included in the CTA and the number of lots to be served; the excess capacity of the treatment plant, if any; the suitability of the proposed site for providing safe and efficient Services; potential environmental hazards and adverse impacts, if any; and, a statement as to why the applicant believes the approval of the permit is (consistent with the spirit, purpose, and intent of the Zoning Ordinance, will not permanently injure the appropriate use of neighboring

property, and will substantially serve the public convenience and welfare. The legal description of the site for which the conditional use is requested, as well as plans and specifications for all improvements to be located thereon, shall be furnished the Board of Zoning Appeals.

2. To the extent practicable, the Plant shall be located and/or adequately screened so as not to be visible from any public street or way, lots in the subdivision to be served or occupied structures on adjoining property. The Plant site shall be landscaped in a manner consistent with residential tracts in its immediate vicinity, and all natural screening, approved plantings, or screening structures shall be continually maintained and replaced by the Company as necessary during the term of use of the Plant. In reviewing the proposed plant location, the Board of Zoning Appeals shall consider the possibility of objectionable odors, the direction of prevailing winds, and the effect of the combination of same on occupied lands.
 3. The Plant and related equipment shall be fenced to prevent unauthorized access, and admittance to the site shall be gained by a private road which shall be surfaced with concrete or blacktop and properly maintained by the Company at all times. Use of the roadway and access to the Plant shall be controlled, but, by express recorded covenant, representatives of the Floyd County Plan Commission, Floyd County Health Department, Indiana State Board of Health, IDEM, DNR, and other entities or agencies having jurisdiction shall have the use of said road and access to the site and Plant at all reasonable times upon reasonable notice.
- E. In addition to the requirements of this Section and those conditions which may be imposed by the Board of Zoning Appeals, the approval of a permit hereunder shall be further conditioned upon the requirement that the plant and all related structures and equipment shall be constructed and installed in accordance with the plans and specifications approved by those governmental entities having jurisdiction, and that the applicant shall have and/or acquire all federal, state, and local permits, licenses and franchises, if any be required, authorizing and permitting the construction and operation of the plant and the rendering of Services.
- F. If it is the intent of the Company to provide Services to a proposed or existing subdivision, the conclusion of a sewage disposal agreement by and between the Company and the Owner, in accordance with the terms and provisions of the Floyd County Subdivision Regulations shall be a condition of a permit approved hereunder, and those terms and provisions of such agreement as are applicable to, binding upon, and which set forth the duties and obligations of the Company, either concerning the use or development of the permitted site or the rendering of Services, shall be, if so directed and required by the Board of Zoning Appeals, the written commitment of the Company, as the same is permitted by the provisions of IC 36-7-4-921, and with the same to be enforced by the Floyd County Plan Commission and those persons or entities specified by said Regulations.

Section 11.01 – Title, Purpose and General Provisions

This article shall control the following elements:

- A. Storm Water Illicit Discharge Control
- B. Construction Site Runoff Control
- C. Post-Construction Site Runoff Control

Section 11.02 – Jurisdiction

This article shall govern all properties and controlled activities within the jurisdictional boundaries of the Floyd County Plan Commission.

Section 11.03 – Recitals

Whereas, the community's municipal separate storm sewer system (MS4) receives discharges that are not composed entirely of storm water runoff causing increased non-point source pollution and receiving water degradation. Whereas, surface water runoff can carry pollutants into receiving waters, and uncontrolled storm water drainage and/or discharges may have significant adverse impacts on the health, safety and welfare of the citizens of Floyd County, Indiana, the potential impacts of these pollutants and pollution may include:

- A. Adverse impacts to public health and safety, drinking water supplies, recreation, fish and other aquatic life, property values and other land and water uses;
- B. Changing natural ecosystems through the destruction of habitat, and the loss of plant and animal life;
- C. Posing significant health risks through an increase in bacteria and toxic materials;
- D. Accelerating eutrophication of receiving waters by introducing excessive nutrients;
- E. Increasing metal deposits creating toxicity for aquatic life;
- F. Reducing in-stream oxygen levels because of oil, grease and organic matter; and
- G. Affecting animal and plant life, adversely, due to changing temperatures of receiving waters.

Whereas, the adverse water quality consequences described above may result in substantial economic losses. Potential losses include, but are not limited to, increased drinking water and wastewater treatment costs and diminished property values, as well as state and federal fines associated with water quality violations.

Whereas, every parcel of property, both private and public, either uses or benefits from Floyd County's storm water system.

Whereas, current and anticipated growth will contribute to and increase the need for an effective storm water system.

Section 11.04 – Objectives

Protection of short-term and long-term public health, safety and general welfare will be achieved by:

- A. Providing for regulation and management of Floyd County's storm water system, including public and private facilities within Floyd County's service area;
- B. Protecting, and preserving water quality and fish and wildlife habitat within Floyd County and in downstream receiving waters; and
- C. Protecting those downstream from storm water quality impairment(s).
- D. Compliance with state and federal storm water regulations developed pursuant to the Clean Water Act Amendments of 1987 and subsequent amendments through 2004. The objectives of these regulations include:
- E. Controlling the quality of water discharged by controlling the contribution of pollutants to the storm water system by storm water discharges associated with residential, commercial and industrial activity;
- F. Prohibiting illicit discharges to storm water;
- G. Controlling the discharge of spills and dumping or any disposal of materials other than storm water into the storm water system.

Section 11.05 – Authority and Right of Entry

- A. Floyd County shall have right-of-entry on or upon the property of any Person subject to this ordinance and any permit/document issued hereunder. The County shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this ordinance.
- B. Where a property, site or facility has security measures in force which require proper identification and clearance before entry, the Responsible Party shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, Floyd County will be permitted to enter without delay.
- C. Access by Floyd County shall include the right to erect upon the property such devices as are necessary to conduct sampling and/or metering of storm water operations or discharges.
- D. Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly upon request of, and at no cost to, Floyd County.
- E. Floyd County may inspect the facilities of any person in order to ensure compliance with this ordinance. Except in an emergency relating directly to the health, safety, and welfare of the public, an inspection shall be made only after reasonable notice to and consent by the responsible party. However, if such consent is refused, denied, or not promptly tendered, Floyd County may seek appropriate judicial orders permitting such entry.

- F. Floyd County has the right to determine and impose inspection schedules necessary to enforce the provisions of this article. Inspections may include, but are not limited to, the following:
1. An initial inspection prior to storm water management plan approval;
 2. An inspection prior to burial of any underground drainage structure;
 3. Erosion control inspections as necessary to ensure effective control of sediment prior to discharge to the municipal separate storm sewer system;
 4. A finish inspection when all work, including installation of storm management facilities, have been completed; and
 5. An inspection to determine the effectiveness or operational viability of a permanent or long-term storm water quality management practice.

Section 11.06 Illicit Discharges

- A. Pursuant to the National Pollutant Discharge Elimination System Municipal Separate Storm Sewer System (MS4) Program, illicit discharges to the MS4 are defined as illegal. Except as hereinafter provided, all non-storm water discharges into the MS4 are prohibited and declared to be unlawful.
- B. It is unlawful for any Person to connect any pipe, open channel, or any other conveyance system that discharges into the MS4 anything except (1) storm water, or (2) unpolluted water, or (3) such other substance which is approved by Floyd County based on exemptions listed in section 11.06(E)below.
- C. It is unlawful for any Person to discharge waters from residential construction activities that are not in compliance with the Standard of Practice for Residential Construction Storm water Management as approved by Floyd County.
- D. In addition to illicit discharges, the discharge of spills and the dumping and/or disposal of materials other than storm water, including, but not limited to, industrial and commercial wastes, commercial car wash wastes, sewage, garbage, yard waste, trash, petroleum products, including used motor vehicle fluids, as well as leaf litter, grass clippings, and animal wastes into the MS4, whether directly or indirectly, is prohibited, unless authorized under a NPDES permit.
- E. Allowable Discharges: Unless Floyd County has identified a discharge as an unacceptable source of pollutants to the "Waters of the State of Indiana", the following non-storm water discharges into the MS4 are lawful:
1. Discharges from emergency fire fighting activities;
 2. Diverted stream flows;
 3. Rising ground waters;

4. Uncontaminated groundwater infiltration to separate storm sewer systems (as defined by 40 CFR35.2005(20);
5. Uncontaminated pumped ground water;
6. Discharges from potable water sources as required for system maintenance;
7. Drinking water line flushing;
8. Air conditioning condensate;
9. Uncontaminated landscape irrigation;
10. Uncontaminated irrigation water;
11. Lawn watering;
12. Uncontaminated springs;
13. Uncontaminated water from crawl space pumps;
14. Uncontaminated water from footing drains and pumps;
15. Individual residential car washing;
16. Flows from riparian habitats and wetlands;
17. De-chlorinated swimming pool discharges;
18. Controlled flushing storm water conveyances (contained and treated by appropriate BMPs);
19. Discharges made from residential construction sites fully and completely utilizing guidance provided by "Standard of Practice for Residential Construction Storm water Management";
20. Discharges within the constraints of a National Pollutant Discharges Elimination System (NPDES) permit from the Indiana Department of Environmental Management (IDEM); and
21. Discharges approved at the discretion of Floyd County.

Section 11.07 Illegal Discharges

It shall be unlawful for any Person to improperly dispose of any contaminant into the MS4. Contaminants include, but are not limited to the following:

- A. Trash or debris;
- B. Construction materials or uncontrolled sediment;
- C. Petroleum products, including but not limited to oil, gasoline, grease, fuel oil or hydraulic fluids;
- D. Antifreeze and other automotive products;
- E. Metals in either particulate or dissolved form;
- F. Flammable or explosive materials;
- G. Radioactive materials;
- H. Batteries, including but not limited to, lead acid automobile batteries, alkaline batteries, lithium batteries or mercury batteries;
- I. Acids, alkalis or bases;
- J. Paints, stains, resins, lacquers or varnishes;
- K. Degreasers and/or solvents;
- L. Drain cleaners;
- M. Pesticides, herbicides or fertilizers;
- N. Steam cleaning wastes;
- O. Soaps, detergents or ammonia;
- P. Swimming pool backwash including chlorinated swimming pool discharge;
- Q. Chlorine, bromine and other disinfectants;
- R. Heated water;
- S. Animal waste, either from domestic animals or from feeder lot operations;
- T. Leakage from sanitary sewers and connections that have remained uncorrected for more than 7 days;
- U. Recreational vehicle waste;
- V. Animal carcasses;
- W. Food wastes;
- X. Medical wastes;
- Y. Bark and other fibrous materials;
- Z. Collected lawn clippings leaves or branches;
- AA. Silt, sediment or gravel;
- BB. Dyes, except with permission from Floyd County;
- CC. Chemicals not normally found in uncontaminated water;
- DD. Water from fresh concrete or that used for cleaning, finishing, and/or to expose aggregates;
- EE. Junk motor vehicles;
- FF. Leakage from solid waste disposal containers;
- GG. Sewage or sewage sludge;
- HH. Any polluted household wastewater, such as, but not limited to, laundry wash water and dishwater, except that discharged to a sanitary sewer or septic system;
- II. Leakage from water lines that has remained uncorrected for seven days or more;
- JJ. Commercial, industrial or public vehicle wash discharge;
- KK. Garbage or sanitary waste;
- LL. Dead animals or animal fecal waste;
- MM. Dredged or spoil material;
- NN. Wrecked or discarded vehicles or equipment;

- OO. Wash waters to the storm drain system from the cleaning of gas stations, auto repair garages or other types of auto repair facilities;
- PP. Wastewater to the storm drain system from mobile auto washing, steam cleaning, mobile carpet cleaning and other such mobile commercial and industrial operations;
- QQ. Waters from areas devoted to the repair of machinery and equipment, including motor vehicles, which are visibly leaking oil, fluids or coolants;
- RR. Waters from storage areas for materials containing grease, oil, or hazardous materials or uncovered receptacles containing hazardous materials, grease or oil;
- SS. Toxic materials from paved or unpaved areas;
- TT. Discharge into the storm drain system from the washing or rinsing of restaurant mats, roof vents, grease traps, equipment or garbage bins or cans;
- UU. Sewage, industrial wastes, or other wastes if discharged into a well or a location that is likely that the discharged substance will move into a well, or the underground placement of fluids and other substances which do or may affect the waters of the State; and
- VV. Any hazardous material or waste not listed above.

It is not the intent of Floyd County, by this ordinance, to propose penalties for de minimus discharges that have no significant adverse impact on the safety, health, the welfare of the environment or the functionality of the storm water drainage/collection system, and to this end, such de minimus discharges are expressly exempted from the application of this ordinance..

Section 11.08 - Accidental discharges

In the event of any discharge of a hazardous substance in amounts that could cause a threat to public drinking supplies, a spill beyond that of de minimus levels, or any other discharge that could constitute a threat to human health or the environment, the person causing the discharge or the owner or operator of the facility responsible for same or his designee (collectively, responsible party) shall give notice to Floyd County and IDEM as soon as practicable, but in no event later than of two hours after (1) discovery of the accidental discharge or (2) when the responsible party becomes aware of the circumstances of the incident.

If an emergency response by governmental agencies is needed, the responsible party shall call 911 immediately to report the discharge. Reports required by the Indiana Spill Rule (327 IAC 2-6.1-7), shall be made within two (2) hours of discovery, and a written report shall be provided to Floyd County within five days of the time the incident, unless this requirement is waived by Floyd County for good cause shown on a case-by-case basis. The report shall contain the following information:

- A. A description of the discharge,
- B. The exact dates and times of discharge, and
- C. Steps being taken to eliminate and prevent recurrence of the discharge.
- D. The responsible party shall take all reasonable steps to minimize any adverse impact to the MS4 or the Waters of State, including accelerated or additional monitoring necessary to determine the nature and impact of the discharge.

Section 11.09 Enforcement

Any Person responsible for any connection to the MS4 which results in a prohibited discharge shall immediately cause such illegal connection to be discontinued and redirected, if necessary, to an approved sanitary sewer system. Such Person shall provide Floyd County with written confirmation, in a form satisfactory to Floyd County, that the connection has been discontinued, and, if necessary, redirected to the sanitary sewer.

Any Person responsible for illicit discharges or noncompliance with BMPs at industrial and/or construction sites, and who fails to correct any prohibited condition or discontinue any prohibited activity at the order of Floyd County, shall be liable to the County for expenses incurred in abating pollution. Such expenses may include those incurred in testing, measuring, sampling, collecting, removing, treating, and disposing of the polluting materials and preventing further noncompliance and/or illicit discharges.

- A. Floyd County may institute appropriate actions or proceedings at law or in equity for the enforcement of this ordinance, and Floyd County shall be entitled to recover its costs expended and reasonable attorney fees in any such proceeding. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent Floyd County from taking such other lawful action as necessary to prevent or remedy any violation, including application for injunctive relief. Any of the following enforcement remedies and penalties, to be applied independently or in a sequence as deemed necessary, shall be available to Floyd County in response to violations of this ordinance. If the Person, property or facility has or is required to have a storm water discharge permit from the IDEM, Floyd County shall notify the appropriate State authorities of the violation.
- B. Notice of Violation (NOV) – Whenever Floyd County finds that any Person owning or occupying premises has violated or is violating this ordinance or an order issued hereunder, the enforcement official may serve, by personal service, registered, or certified mail, upon said Person a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to Floyd County. Submission of this plan shall not, however, affect liability for violations of this ordinance.
- C. Revocation of permit – Floyd County revoke and require surrender of a permit or certificate by notifying the permit holder, in writing, of the reason for the revocation. Permits or certificates may be revoked for any substantial departure from the approved application plans or specifications; refusal or failure to comply with the requirements of State or local law; or, for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.
- D. Stop Work Order – Floyd County may issue a Stop Work Order and require that all activities cease, except those actions that are necessary to eliminate the illicit discharge. Unacceptable or untimely actions to eliminate the illicit discharge may be used as grounds to revoke permits for the construction site as described in 11.08 (C).

- E. Compliance order – If any Person shall violate the provisions of this ordinance, Floyd County may order the owner, responsible party, or any Person in possession of the subject property that all unlawful conditions existing thereupon be abated within a scheduled period defined from the date of such notice.
- F. The enforcement official shall have the authority to establish elements of a storm water pollution prevention plan and require any business to adopt and implement such a plan as may be reasonably necessary to fulfill the purposes of this Article. The enforcement official may establish the requirements of BMPs for any premises.
- G. If it is determined by Floyd County that an unlawful condition is such that there is imminent danger or peril to the public health, safety, or welfare, Floyd County may, with or without notice, proceed to abate the same, with the costs of such abatement to be charged against the property, its owner, or the responsible party, jointly and severally.
- H. Civil Penalties – Any Person who has been found to have violated of any provision of this ordinance may be assessed a civil penalty not to exceed the amount the lessor of (1) that set forth in this subsection or (2) the maximum amount permitted by law.
- I. The penalty shall increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same Person. This penalty shall be in addition to other enforcement actions of this section.
- J. The penalty may be assessed for each day that the prohibited activity continues beyond those schedules set forth in compliance orders or other abatement schedules issued to the property owner or other Person responsible by Floyd County.
- K. In determining the amount of the penalty the Court shall consider the following:
 - a. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
 - b. The duration and gravity of the violation;
 - c. The effect on ground or surface water quality;
 - d. The cost of rectifying the damage;
 - e. The amount of money saved by noncompliance;
 - f. Whether the violation was committed willfully or intentionally;
 - g. The cumulative effect of other enforcement actions applied for the same offense;
 - h. The prior record of the violator in complying or failing to comply with the storm water quality management program; and The costs of enforcement to Floyd County.
 - i. A civil penalty of not more than \$2,500.00 may be assessed for each of the following offenses:
- L. A civil penalty of not more than \$2,500.00 may be assessed for each of the following offenses:
 - a. Development without permit: To engage in any development, use, construction, remodeling or other activity of any nature upon land or improvements thereon, subject to the jurisdiction of this ordinance without all required permits, certificates or other forms of authorization as set forth in this ordinance.

- M. Development inconsistent with permit: To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate or other form of authorization granted for such activity.
- N. Violation by act or omission: To violate, by act or omission, any term, variance, modification, condition or qualification placed by Floyd County upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.
- O. Illicit Discharge: To improperly disposed of any substance defined as an illicit discharge.
- P. Household Products: To improperly disposed of any substance, not included in this section, that was purchased over-the-counter for household use, in quantities considered normal for household purposes, which upon discharge to the MS4 or drainage network would have an adverse impact on water quality or cause Floyd County to be in noncompliance with any applicable environmental permit. In the event there are penalties assessed by the State against Floyd County and resulting from a violation of this ordinance, the Person responsible for such violation may be assessed the lesser of (1) the amount of the penalty assessed as against Floyd County, or (2) \$2,500.00.
- Q. Order to clean and abate/restore – Any violator may be required to clean and/or restore land to its condition prior to the violation.
- R. Cost Recovery - If corrective action, including required maintenance, is not completed in the time specified or within a reasonable time, Floyd County may take the corrective action, and the cost of abatement or corrective action may be assessed against the responsible party, owner of the premises, and/or the developer. If these costs are not paid within 90 days or invoice, the enforcement official may initiate all appropriate legal actions to enforce the claim.
- S. Injunctions and/or proceedings at law or in equity – Any violation of this ordinance or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law.
- T. Civil Actions – In addition to any other remedies provided in this ordinance, any violation of this ordinance may be enforced by civil action brought by Floyd County. Monies recovered under this subsection shall be paid to Floyd County to be used exclusively for costs associated with implementing or enforcing the provisions of this ordinance. In any such action, Floyd County may seek, as appropriate, any or all of the following remedies:
 - 1. A temporary and/or permanent injunction;
 - 2. Assessment of the violator for the costs of any investigation, inspection or monitoring survey which lead to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;
 - 3. Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;
 - 4. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.

- U. **Emergency Orders and Abatements.** Floyd County may order the abatement of any discharge from any source to the storm water conveyance system when, in the opinion of Floyd County, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, or welfare of the citizens of Floyd County, the environment, or is a violation of a NPDES permit. If such emergency situations occur and the property owner or other responsible party is unavailable, or time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, Floyd County may undertake the abatement of said threat or danger. The costs of any such action by Floyd County may be recovered as in 11.088 (R).
- V. **Violations deemed a Public Nuisance.** Any condition caused or permitted to exist in violation of any of the provisions of this ordinance is deemed a threat to the public health, safety, welfare and environment, and is declared and a nuisance which may be abated by injunctive or other equitable relief.
- W. **Remedies Not Exclusive.** The remedies listed in this ordinance are not exclusive of any remedies available under any applicable Federal, State or local law and Floyd County may seek cumulative remedies.

Section 11.10 Compatibility and Severability

Should any article, section, subsection, clause or provision of this ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared to be unconstitutional or invalid, each article, section, clause and provision being declared severable.

If any provision of this ordinance is inconsistent with any other, law, regulation, statute, or ordinance; or results in the imposition of overlapping or contradictory regulations; or if this ordinance contains any restriction covering any of the same subject matter of another law, regulation, statute, or ordinance, the provision which is most restrictive or imposes the highest standard or strictest requirement shall govern.

Section 11.11 Title, Purpose and General Provisions

This section shall control storm water activities associated with Construction Site Runoff Control of Floyd County, Indiana.

Section 11.12 Jurisdiction, Alternatives, and Exemptions

The Construction Site Runoff Control Ordinance shall govern all properties within the jurisdictional boundaries of the Floyd County Plan Commission.

- A. There are two alternatives for permit application and processing procedures as described by the following:
 - 1. For projects located within the Floyd County's MS4 area, the project site owner shall submit an application for a storm water management permit to Floyd County. The application will include the information specified in Sections 11.17-11.23 of this ordinance. Four copies of each application must be submitted. Additionally, the County may require digital submission of construction plans in an approved format. One copy of the

application will be forwarded to the Soil and Water Conservation District (SWCD) for its review and comment. The remaining three copies will be reviewed by departments within the County.

2. Once all comments have been compiled from the departments and the SWCD, the project will be placed on the agenda of the next scheduled meeting of the Plan Commission. The County will furnish the applicant with a complete list of comments and objections to the plans and supporting documentation submitted by the applicant, at least 10 days prior to the scheduled meeting. Within 10 days after the meeting, the County will either issue a permit, or request modification to the construction plans.
 3. The project site owner must notify the County and the IDEM within 48 hours prior to the commencement of construction activities by the submission of an updated NOI. Upon completion of construction activities, stabilization of the project site and removal of all temporary erosion protection and sediment control measures, the applicant may submit a Notice of Termination (NOT) to the County. The County shall inspect the project site to verify that the requirements of the NOT have been met. Once the applicant receives a verified copy of the NOT, the applicant must forward a copy of the verified NOT to the IDEM.
- B. For projects located only partially inside the County's MS4 area, the project site owner must comply with the requirements of this ordinance and may also be required to comply with 327 IAC 15-5 (Rule 5) and/or another MS4 community's construction site control ordinance.
- C. The following development activities are exempt from the provisions of this ordinance.
1. Agricultural land management activities
 2. Additions to or modifications of existing detached, single-family dwellings
 3. Development of individual lots which are not part of a larger development project, if the total disturbance is less than one (1) acre. For multi-lot developments, see 11.19 (B) and 11.19 (C).
 4. Development that does not disturb more than 5,000 square feet of land. This exception does not apply to tracts or parcels, whether in common or separate ownership, which have been subdivided from a single parent tract, if the total area within the original parent tract which is disturbed, any one time, exceeds 5,000 square feet.

NOTE: These exemptions apply only to permitting procedures under this Article and do not, necessarily, apply to any discharge of sediment or other form of water pollution that may leave a site. Such discharges may, in fact, constitute prohibited illicit discharges.

Section 11.13– Recitals

Whereas, uncontrolled storm water drainage/discharge may have a significant adverse impact on the health, safety and welfare of the citizens of Floyd County, Indiana. More specifically, surface water runoff can carry pollutants and sediment pollution into receiving waters. The potential impacts include:

- A. Changing natural ecosystems through the destruction of habitat and the loss of plant and animal life.
- B. Posing significant health risks through an increase in bacteria and toxic materials.
- C. Accelerating eutrophication of receiving waters by introducing excessive nutrients.
- D. Increasing metal deposits creating toxicity for aquatic life.
- E. Reducing oxygen levels because of oil, grease and organic matter.
- F. Affecting animal and plant life, adversely, due to changing temperatures of receiving waters.
- G. Accumulation of excess sediment and/or debris that limits the function of flood control infrastructure.

Whereas, adverse water quantity and quality consequences described above may result in substantial economic losses. Potential losses include, but are not limited to, increased wastewater treatment costs, diminished property values, as well as state and federal fines associated with water quality violations.

Whereas, every parcel of property, both private and public, either uses or benefits from Floyd County's storm water system.

Whereas, current and anticipated growth will contribute to and increase the need for an effective storm water system.

Section 11.14 Objectives

Protection of the short-term and long-term public health, safety, general welfare. This objective will be achieved by providing for regulation and management of Floyd County's storm water system, including public and private facilities in its service area.

- A. Protecting, and preserving water quality and fish and wildlife habitat within Floyd County and in downstream receiving waters.
- B. Protecting those downstream from water quality impairment.
- C. Compliance with state and federal storm water regulations developed pursuant to the Clean Water Act Amendments of 1987 and subsequent amendments through 2001. The objectives of these regulations include:
 - 1. Managing the quality of water discharged to the municipal storm water system by controlling the contribution of pollutants associated with residential, commercial and industrial activity.
 - 2. Controlling storm water pollution caused by the suspension and transport of soils and other sediments.
 - 3. Protecting or enhancing storm water quality to a level of "designated use" and minimize the impacts from new development and/or areas of significant redevelopment.

- D. To help maintain a stable tax base by providing for the sound use and development of flood-prone area in such a manner as to maximize beneficial use without increasing flood hazard potential or diminishing the quality of the natural storm water resources.
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets and bridges.
- F. Ensure the use of the public and private storm water management system that will not result in excessive maintenance costs.
- G. Encourage the use of natural and aesthetically pleasing designs that maximize preservation of natural areas.
- H. Control the discharge of sediment and construction site materials into the storm water system.
- I. Guide the construction of storm water management facilities by developing comprehensive master plans to address storm water quantity and quality.
- J. Encourage preservation of flood plains, flood ways and open spaces to protect and benefit the community's quality of life and natural resources.

Section 11.15 – Authority and Right of Entry

- A. Floyd County shall have right-of-entry on or upon the property of any Person subject to this Article and any permit/document issued hereunder. The County shall be provided ready access to all parts of the premises for the purposes of inspection, monitoring, sampling, inventory, records examination and copying, and the performance of any other duties necessary to determine compliance with this Article.
- B. Where a property, site or facility has security measures in force which require proper identification and clearance before entry into its premises, the Responsible Party shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, Floyd County will be permitted to enter without delay.
- C. Access by Floyd County shall include the right to erect upon the property such devices as are necessary to conduct sampling and/or metering of storm water operations or discharges.
- D. Any temporary or permanent obstruction to safe and easy access to the areas to be inspected and/or monitored shall be removed promptly upon request and at no cost to Floyd County.
- E. Floyd County may inspect the facilities of any person in order to ensure compliance with this Article. Except in an emergency relating directly to the health, safety, and welfare of the public, an inspection shall be made only after reasonable notice to and the consent of the responsible party. However, if such consent is refused, denied or not promptly tendered, Floyd County may seek appropriate judicial orders permitting such entry.
- F. Floyd County has the right to determine and impose inspection schedules necessary to enforce the provisions of this article. Inspections may include, but are not limited to, the following:

1. An initial inspection prior to storm water management plan approval;
2. An inspection prior to burial of any underground drainage structure;
3. Erosion control inspections as necessary to ensure effective control of sediment prior to discharge to the municipal separate storm sewer system;
4. A finish inspection when all work, including installation of storm management facilities, have been completed; and
5. An inspection to determine the effectiveness or operational viability of a permanent or long-term storm water quality management practice.

Section 11.16 Perimeter/Outfall Protection Permit

- A. A *Perimeter/Outfall Protection Permit* must be issued prior to breaking ground or disturbing soil in order to install sediment control practices at the hydrologic perimeter / outfall(s) of a construction site. The permit does not give permission to the permit holder to break ground or disturb soil on the entire construction site, as is granted through the approval and issuance of a *Storm water Quality Management Permit*.
- B. A *Perimeter/Outfall Protection Permit* is a predecessor to a *Storm water Quality Management Permit*. While plans for both permits are approved simultaneously, the provisions of a *Perimeter/Outfall Protection Permit* must be implemented, inspected and accepted by Floyd County prior to issuance of a *Storm water Quality Management Permit*.
- C. A *Perimeter/Outfall Protection Permit* may only be issued after the review and acceptance of a Perimeter Control Plan.
- D. Securing the perimeter prior to any land disturbance will decrease sedimentation off-site once construction has begun. Perimeter protection shall focus on downstream points and outfall areas and does not necessitate protection of the entire site boundary. Efforts shall be focused on those areas where water flow is most likely to exit the project site.
- E. Clearing, except that necessary to establish sediment control devices shall not begin until all sediment control devices have been installed and have been stabilized. Sediment control devices prevent eroded soil from leaving the project site through the site perimeter or outfalls.
- F. Contractors shall install sediment control measures and regularly inspect and maintain the facilities throughout construction.
- G. Compliance with this Article requires that a grading plan be developed and submitted, a grading permit obtained, and a perimeter control plan be implemented before any clearing or stripping.

H. Perimeter Control Plan

1. The Perimeter Control Plan shall include measures to prevent sediment from leaving the site during initial disturbance activities and prior to temporary or permanent erosion prevention and/or sediment control practices.
 2. The Perimeter Control Plan shall address downstream outfall points, while the Grading Plan defines site-wide erosion prevention and sediment control measures.
 3. The Perimeter Control Plan shall address prevention of sediment deposition on properties adjacent to the project site. Utilizing well-vegetated buffer strips along lower perimeters, sediment barriers, filters, diversion berms, sediment basins or other means accepted by Floyd County may all be employed or combined to adequately protect adjacent properties.
 4. In selection of sediment control measures the type of flow, site terrain, soil type, and other relevant factors shall be considered. Buffer strips may only be utilized for sheet flow and must be at least twenty-five (25) feet in width. If ineffective, a single sediment control device shall be supplemented with additional perimeter controls.
 5. The Perimeter Control Plan shall address stabilizing construction entrances/exits to reduce the amount of sediment transported onto nearby roadways, and potentially into waterways. Where possible, traffic entering a public right-of-way, alley, sidewalk, or parking lot, traffic shall first pass over a stabilized stone pad. This pad shall be at least six (6) inches thick, one-hundred (100) feet long, and contain two (2) to three (3)-inch crushed coarse graded stone. If operating under seasonally wet conditions and/or soft soils, filter fabric shall underlie the stabilized stone pad.
 6. The Perimeter Control Plan shall address protection of outlets such as pipes, drains, culverts, conduits or channels by significantly minimizing erosion and sedimentation through reduction of the velocity of flows from the project site. The placement of rock, grouted rip-rap, or concrete rubble at the outlet of a pipe to prevent scour of the soil around the culvert mouth caused by the high pipe flow velocities or similar measures are encouraged.
- I. Acceptance: Site inspection and approval by Floyd County must be received before any land disturbance or grading may proceed.
1. Floyd County shall make inspections of the site prior to the acceptance of the perimeter protection plan. Inspection will be performed within seven (7) days after the submission of the plan and installation of the perimeter protection devices but before any disturbance or clearing has been performed. The inspector shall either approve the portion of work completed or shall advise the permittee as to the noncompliance with the perimeter protection plan as approved.
 2. Inspection of perimeter protection BMPs shall consist of a visual check list for each type of BMP, to ensure that each was designed and installed according to site specific conditions.
 3. Acceptance of the perimeter control plan and inspection of the appropriate BMPs shall compensate for and address any seasonal variations which may hinder the effectiveness

of the BMPs. Seasonal variations may include changes in flow, hydrology, temperature, and vegetation. BMPs shall be designed according to these variations and appropriately to maintain a level of service.

- J. The Indiana Department of Natural Resource's guidance documents, including the "Handbook for Erosion Control in Developing Areas, 1985" or the "Indiana Storm water Quality Manual", should be reviewed and considered when preparing the Perimeter Control Plan.
- K. Floyd County reserves the right to develop or adopt other guidance documents to serve as design and implementation standards.

Section 11.17 Storm Water Quality Management Permit

Floyd County requires that all non-exempt development or redevelopment activities obtain a Storm Water Quality Management Permit.

- A. A Storm Water Quality Management Permit must be issued prior to the initiation of any land disturbing activities to ensure the protection of the County's storm water system, public health, water quality and aquatic life.
- B. It will be the responsibility of the project site owner to complete a storm water permit application and to ensure that a sufficient construction plan, including a Storm water Pollution Prevention Plan (SWPPP), is completed and submitted to the Plan Commission in accordance with this Article.
- C. It will be the responsibility of the project site owner to ensure compliance with this Article and implementation of the SWPPP during the construction activity, and to notify the County of project termination via a Notice of Termination (NOT) letter upon completion and stabilization of the site. However, all persons engaging in construction and land disturbing activities on a permitted project site must comply with the requirements of this Article.
- D. Submissions for a Storm Water Quality Management Permit application must include (1) a Notice of Intent letter with proof of publication of a Public Notice, (2) Construction Plans, (3) a Storm Water Pollution Prevention Plan, and (4) any other necessary information or documentation requested by the County.
 - 1. The Notice of Intent (NOI) letter is a standard form that includes the following information:
 - 2. Name, mailing address and location of the project site for which the notification is submitted.
 - 3. The project site owner's name, address, telephone number, e-mail address (if available) and ownership status as federal, state, public, private or other entity.
 - 4. Contact person (if different than project site owner), person's name, company name, address, e-mail address (if available) and telephone number.
 - 5. A brief description of the construction project, including a statement of the total acreage of the project site. Total acreage claimed in the NOI letter shall be consistent with the acreage covered in the construction plan.

6. Estimated dates for initiation and completion of construction activities.
 7. The latitude and longitude of the approximate center of the project site to the nearest fifteen (15) seconds, and the nearest quarter section, township, range, and civil township in which the project site is located.
 8. Total impervious surface area, in square feet, of the final project site including structures, roads, parking lots, and other similar improvements.
 9. The number of acres to be involved in the construction activities.
 10. Proof of publication of a Public Notice in a newspaper of general circulation in Floyd County notifying the public that construction activities are to commence, and that states the following:
 - a. "(Company name, address) is submitting an NOI letter to notify the Floyd County and the Indiana Department of Environmental Management of our intent to comply with the requirements the Construction Site Runoff Control Ordinance of Floyd County, Indiana, and the requirements of 327 IAC 15-5 and 327 IAC 15-13 to discharge storm water from construction activities for the following project: (name of the construction project, address of the location of the construction project). Run-off from the project site will discharge to (stream(s) receiving the discharge(s))."
- E. As applicable, a list of all MS4 areas designated under 327 IAC 15-13 in which the project site lies together with a signed certification that:
1. the storm water quality measures included in the construction plan comply with the requirements of this Article and that the SWPPP complies with all applicable federal, state, and local storm water requirements;
 2. the measures required by this Article will be implemented in accordance with the SWPPP;
 3. storm water quality measures beyond those specified in the storm water pollution prevention plan will be implemented during the life of the permit if necessary to comply with this Article; and
 4. installation and maintenance of storm water quality measures will be inspected by trained individuals.
 5. The name of the receiving water(s) or, if the discharge is to a municipal separate storm sewer, the name of the municipal operator of the storm sewer and the ultimate receiving water.
 6. The NOI letter must be signed by a Qualified Professional.

7. The NOI letter must be submitted to the Floyd County Plan Commission at the following location/address:

City-County Building
New Albany, IN 47150

8. Construction plan sheets and an accompanying narrative report shall be submitted describing existing and proposed site conditions, including the following:
 - a. Project narrative and supporting documents, including the following information:
 - b. An index indicating the location in the construction plans of all information required by this subsection.
 - c. Description of the nature and purpose of the project.
 - d. Legal description of the project site. The description should be to the nearest quarter section, township, and range, and include the civil township.
 - e. Soil properties, characteristics, limitations, and hazards associated with the project site and the measures that will be integrated into the project to overcome or minimize adverse soil conditions.
 - f. General construction sequence of how the project site will be built, including phases of construction.
 - g. 14-Digit Watershed Hydrologic Unit Code (HUC).
 - h. A reduced plat or project site map showing the lot numbers, lot boundaries, and road layout and names. The reduced map must be legible and submitted on a sheet or sheets no larger than eleven (11) inches by seventeen (17) inches for all phases or sections of the project site.
 - i. A general site plan exhibit with the proposed construction are superimposed on ortho-aerial map at a scale of 1"= 100'. The exhibit should provide 2-foot contour information and include all roads and buildings within a minimum 500' radius beyond the project boundaries.
 - j. Identification of any other state or federal water quality permits that are required for construction activities associated with the owner's project site.
 - k. Vicinity map depicting the project site location in relationship to recognizable local landmarks, towns, and major roads, such as a USGS topographic quadrangle map or county or municipal road map.
 - l. An existing project site layout that must include the following information:

- m. Location, name and normal water level of all wetlands, lakes, ponds and water courses on, or adjacent to, the project site.
- n. Location of all existing structures on the project site.
- o. One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.
- p. Soil map of the predominant soil types, as determined by the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS) Soil Survey or as determined by a soil scientist. A soil legend must be included with the soil map.
- q. Identification and delineation of vegetative cover, such as grass, weeds, brush, and trees, on the project site.
- r. Location of storm, sanitary, combined sewer and septic tank systems and outfalls.
- s. Location of regulated drains, farm drains, inlets and outfalls, if any exist of record.
- t. Land use of all adjacent properties.
- u. Existing topography at a contour interval appropriate to indicate drainage patterns.
- v. Final project site layout, including the following information:
- w. Location of all proposed site improvements, including roads, utilities, lot delineation and identification, proposed structures, and common areas.
- x. One hundred (100) year floodplains, floodway fringes, and floodways. Please note if none exists.
- y. Proposed final topography at a contour interval appropriate to indicate drainage patterns.

F. A Grading Plan, including the following information:

- 1. The Grading Plan shall include provisions for operation and maintenance of measures identified in the Perimeter Control Plan.
- 2. The Grading Plan shall make clear the erosion prevention and sediment controls which are most appropriate to the specific site conditions.
- 3. The Grading Plan shall illustrate the location and extent of erosion prevention and sediment controls.

4. The Grading Plan shall include sequencing and schedule information, structural and non-structural Best Management Practices (BMPs), temporary and permanent stabilization measures.
5. The Grading Plan shall include anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of sediment and construction debris)
6. The Grading Plan shall include provisions for construction phasing. This shall be designed so that stripping and clearing of the site exposes only the area necessary for immediate activities and minimizes the amount of soil exposed at any one time. This includes rough grading, construction of utilities, infrastructure and buildings, and final grading and landscaping. Phasing should identify the expected date on which clearing of the area will begin and the estimated duration of exposure. The sequence of phased clearing and the installation of temporary and permanent erosion control measures should be identified.
7. The Grading Plan shall include provisions for a no-disturbance waterway buffer, including:
 - a. The no-disturbance waterway buffer shall be defined as twenty-five (25) feet from the top of waterway bank as defined by geomorphic shape and not by the current water surface elevation.
 - b. The no-disturbance waterway buffer shall be applied to all waterways and open-air drainage systems that drain more one-hundred (100) acres of tributary area or is presented on a United State Geological Survey map as a solid and dashed blue line stream.

G. The Grading Plan shall include provisions for stabilizing denuded areas and soil stockpiles.

1. Soil stabilization shall be designed to prevent the erosive forces of rain and water flow from washing soil from the site. Soil stabilization measures may be temporary and/or permanent and should be appropriate to the seasonal hydrology, site conditions, and estimated duration the measure will be in place.
2. Denuded areas must be stabilized with permanent or temporary soil stabilization measures within 15 days of either achieving final grade, or within 15 days to any area that will remain dormant for over 60 days.
3. Soil stockpiles, if left undisturbed for 15 or more days, shall be stabilized. Sediment trapping measures such as sediment traps and detention ponds shall be utilized to prevent soil loss from the project site through the duration of soil stockpiling practices.
4. The Grading Plan shall include provisions for stabilizing cut and fill slopes.

5. Minimization of erosion must be considered when designing and constructing cut and fill slopes. Length, steepness, soil type, upslope tributary area, groundwater, and other relevant factors must all be taken into account.
6. Stabilization practices such as rock rip-rap, geosynthetic material, or other methods approved shall be used on cut and fill slopes at 3 to 1 or greater.
7. Cut and fill slopes must be stabilized with permanent or temporary soil stabilization measures within 15 days of either achieving final grade, or within 15 days to any area that will remain dormant for over 60 days.
8. The Grading Plan shall include provisions for erosion prevention measures. Erosion prevention measures shall be designed to minimize the suspension of sediment from the soil. The controls may function independently or in combination with sediment control measures, to prevent sediment laden runoff from leaving the construction site. Acceptable erosion prevention practices include:
 - a. Phased Construction/Clearing
 - b. Dust control
 - c. Construction Road Stabilization
 - d. Temporary seeding
 - e. Top Soiling
 - f. Mulching
 - g. Nets and Mats
 - h. Geotextiles
 - i. Terracing
 - j. Soil bioengineering – slope and stream stabilization
 - k. Rip-rap
 - l. Channel linings
 - m. Temporary diversions, drains and swales
 - n. Stream crossings
 - o. Water bar
 - p. Other measures reviewed and accepted by the County are also appropriate erosion prevention practices.
- H. The Grading Plan shall include provisions for sediment control measures. Sediment control measures shall be designed to remove sediment, by settling, flocculating, filtering or other means, from storm runoff prior to discharge from the construction site. The controls may function independently or in combination with erosion prevention measures, to prevent sediment laden runoff from leaving the construction site. Acceptable sediment control practices include:
 1. Stabilized construction entrance
 2. Construction entrance tire washing
 3. Buffer zones
 4. Check dams
 5. Silt fence
 6. Double layered straw bale barrier
 7. Sand bag barrier

8. Brush, rock filter and continuous berms
9. Sediment traps
10. Temporary sediment / detention basin
11. Temporary inlet protection
12. Temporary outlet protection
13. Infiltration systems
14. Wet detention ponds
15. Dry detention ponds
16. Constructed wetlands
17. Biofilter swales
18. Water quality inlets and hydrodynamic separators
19. Other measures reviewed and accepted by the County are also appropriate sediment control practices.

I. A drainage plan, including the following information:

1. An estimate of the peak discharge, based on the 10-year storm event, of the project site for both pre-construction and post-construction conditions.
2. Calculation showing that the peak runoff rate post-development for the 10-year and 100-year return period storms of critical duration will not exceed the 2-year and 10-year return period pre-development peak runoff rates, respectively.
3. Location, size, and dimensions of all storm water drainage systems, such as culverts, storm sewers, and conveyance channels.
4. Locations where storm water may be directly discharged into ground water, such as abandoned wells or sinkholes. Please note if none exists.
5. Locations of specific points where storm water discharge will leave the project site.
6. Name of all receiving waters. If the discharge is to a separate municipal storm sewer, identify the name of the municipal operator and the ultimate receiving water.
7. Location, size, and dimensions of features, such as permanent retention or detention facilities, including existing or manmade wetlands, used for the purpose of storm water management. Include existing retention or detention facilities that will be maintained, enlarged or otherwise altered and new ponds or basins to be built and the basis of their design.
8. The estimated depth and amount of storage required by the design of the new pond(s) or basin(s).

J. A Storm water Pollution Prevention Plan (SWPPP) for construction activities must be designed to, at a minimum, meet the requirements of this Article, and must include the following:

1. Location, dimensions, detailed specifications, and construction details of all temporary and permanent storm water quality measures.

2. Temporary stabilization plans and sequence of implementation.
3. Permanent stabilization plans and sequence of implementation.
4. Temporary and permanent stabilization plans shall include the following:
5. Specifications and application rates for soil amendments and seed mixtures.
6. The type and application rate for anchored mulch.
7. Construction sequence describing the relationship between implementation of storm water quality measures and stages of construction activities.
8. Anticipated inspection and maintenance requirements for permanent and temporary measures. This shall include the expected frequency of routine inspections and maintenance activities (such as removal of waste concrete)
9. A description of potential pollutant sources associated with the construction activities that may reasonably be expected to add a significant amount of pollutants to storm water discharges, including:
 - a. Waste concrete management
 - b. Material delivery, handling and storage
 - c. Sanitary/ septic waste management
 - d. Solid waste / trash and debris management
 - e. Spill prevention control and countermeasures
 - f. Vehicle and equipment cleaning, fueling and maintenance
 - g. Sensitive and vegetated area preservation
 - h. Material delivery, handling and storage associated with construction activities shall meet the spill prevention and spill response requirements of 327 IAC 2-6.1.

K. The SWPPP must include provisions for addressing the following issues as applicable to the site-specific construction activities:

1. De-watering operations
2. Contaminated soil management
3. Hazardous materials and waste management

4. Pesticides, herbicides and fertilizer use
5. Collection system maintenance
6. Drainage system flushing
7. Over-water activities
8. A typical erosion and sediment control plan for individual lots.

Section 11.18 Self-monitoring program including plan and procedures.

The Indiana Department of Natural Resource's guidance documents, including the "Handbook for Erosion Control in Developing Areas, 1985" or the "Indiana Storm water Quality Manual", should be reviewed and considered when preparing the Grading Plan and Storm water Pollution Prevention Plan.

Floyd County reserves the right to develop or adopt other guidance documents to serve as design and implementation standards.

Section 11.19 Requirements for Individual Lots

Although no permit is required for individual lots disturbing less than one (1) acre, within a larger permitted project, a formal storm water review will be required prior to the issuance of a building permit. All storm water management measures necessary to comply with this Article must be implemented in accordance with the permitted plan for the larger project.

- A. The information following in 11.19 (B) and 11.19 (C) must be submitted for review and approval, prior to the issuance of a building permit for an individual lot.
- B. A site location plan showing the individual lot and all adjacent lots dimensions, elevations, drainage patterns and swales.
- C. An erosion and sediment control plan that , at a minimum, includes the following measures:
 1. Installation and maintenance of a stable construction site access.
 2. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
 3. Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved.
 4. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.

5. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

Section 11.20 Self-monitoring program, including a plan and procedures.

Certification of Compliance stating that the individual lot plan is consistent with the storm water management permit approved by the County for the larger project.

- A. The individual lot operator is responsible for the installation and maintenance of all erosion and sediment control measures until the site is stabilized.

Section 11.21 Storm water Quality Management Permit Termination

The project site owner shall plan an orderly and timely termination of the construction activities, including the implementation of storm water quality measures that are to remain on the project site.

- A. The project site owner shall submit a Notice of Termination (NOT) letter to the County and the IDEM and in accordance with the following:
 1. The project site owner shall submit an NOT letter when the following conditions have been met:
 2. All land disturbing activities, including construction on all building lots, have been completed and the entire site has been stabilized.
 3. All temporary erosion and sediment control measures have been removed.
 4. The NOT letter must contain a verified statement that each of the conditions in this subdivision has been met.
 5. The project site owner may submit an NOT letter to obtain early release from compliance with this Article, if the following conditions are met:
 - a. The remaining, undeveloped acreage does not exceed five (5) acres, with contiguous areas not to exceed one (1) acre.
 - b. A map of the project site, clearly identifying all remaining undeveloped lots, is attached to the NOT letter. The map must be accompanied by a list of names and addresses of individual lot owners or individual lot operators of all undeveloped lots.
 - c. All public and common improvements, including infrastructure, have been completed and permanently stabilized and have been transferred to the appropriate local entity.
 - d. The remaining acreage does not pose a significant threat to the integrity of the infrastructure, adjacent properties, or water quality.

- e. All permanent storm water quality measures have been implemented and are operational.
- B. Following acceptance of the NOT letter, the project site owner shall notify all current individual lot owners and all subsequent individual lot owners of the remaining undeveloped acreage and acreage with construction activity that they are responsible for complying with this Article. The remaining individual lot owners do not need to submit an NOI letter or NOT letter. The notice must inform the individual lot owners of the requirements to:
 - 1. install and maintain appropriate measures to prevent sediment from leaving the individual building lot; and
 - 2. maintain all erosion and sediment control measures that are to remain on-site as part of the construction plan.
- C. The SWCD, DNR-DSC, other entity designated by the department or a regulated MS4 entity, or the department may inspect the project site to evaluate the adequacy of the remaining storm water quality measures and compliance with the NOT letter requirements. If the inspecting entity finds that the project site owner has sufficiently filed an NOT letter, the entity shall forward notification to the department. Upon receipt of the verified NOT letter by the department and receipt of written approval from the department, the project site owner shall no longer be responsible for compliance with this rule.
- D. After a verified NOT letter has been submitted for a project site, maintenance of the remaining storm water quality measures shall be the responsibility of the individual lot owner or occupier of the property.
- E. A Storm Water Quality Management Permit shall be considered open and active until a time when Floyd County accepts the site conditions and as-built requirements have been completed.
- F. Acceptance of site conditions shall be made by Floyd County based upon an inspection. If any of the following items are deemed to be insufficient, not appropriate and/or inconsistent with the Grading Plan, Storm water Pollution Prevention Plan or objectives stated in this Article the approval will not be granted.
- G. Pipes, channels, catch basins, water quality treatment devices and other infrastructure are clear of sediment, obstructions and debris, and are designed and operating as appropriate for final site conditions.
 - 1. Slopes are permanently stabilized.
 - 2. Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection, etc.) have been removed (as appropriate) and any resulting soil disturbance stabilized.
 - 3. Temporary pollution prevention practices have been demobilized or removed and affected areas stabilized.

4. Sediment has been removed and slopes stabilized for permanent flood control and water quality control practices.
5. Detention pond grading is stabilized and/or excess sediment removed so that actual volume is at least equal to designed volume and condition.
6. Other items as deemed to be important by Floyd County.

Section 11.22 As-built Requirements

Prior to issuance of a use and occupancy permit or final release of bond, the as-built condition of critical storm water management facilities must be reviewed and approved.

- A. The volume, capacity, slope, configuration, condition, "as-planted" plans and topographic information, as well as all pipe size, material, lengths, for all detention, retention and water quality practices shall be certified by a Professional Engineer licensed in the State of Indiana. This information shall be provided to the County in the form of an as-built drawing or other electronic form accepted/required by The County. The as-built certification shall indicate if final conditions are consistent with, or exceed, the Storm water Quality Management Permit provisions.
- B. If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed the Storm water Quality Management Permit requirements, the Floyd County reserves the right to withhold certification of occupancy or final bond. Furthermore, other enforcement mechanisms, as identified within this Article, may be applied to the Person certifying the as-built information.
- C. If upon inspection by Floyd County it is determined that there is an item that must be addressed to receive acceptance of site conditions, then the Person shall be required to continue inspections and maintenance as described in the Storm water Quality Management Permit.

Section 11.23 Inspections and Maintenance

- A. Permittee Performed Inspections and Maintenance
- B. Permittee Performed Inspections (Self Inspections) must be performed by a Qualified Professional.
- C. Inspections shall be performed at all control measures every fourteen (14) days and within twenty-four (24) hours of a one quarter (0.25) inch rain event. The inspections will determine the overall effectiveness of the Grading and Storm water Pollution Prevention Plans, needed maintenance activities and the need for additional control measures.

- D. All inspections shall be documented in written form and made available to Floyd County or submitted at the time interval specified in the approved permit.
- E. Inspections shall be performed consistent with specific visual maintenance checklists approved by Floyd County.
- F. Documentation of permittee performed inspections and inspection findings shall be kept on site, if appropriate facilities (such as a project trailer or building) are available. In the event, that appropriate facilities are not available then a copy of the most recent inspection shall be displayed at the site along with other documents that must be displayed to the public per other local, state and federal regulations.
- G. Documentation of permittee performed inspections and inspection findings shall be made available within three (3) days of a request by Floyd County. Failure to post or timely submit documentation as requested will be assumed to indicate that inspections were not performed and may result in corresponding enforcement procedures. Inspection documentation shall include by shall not be limited to the following:
 - 1. The address of the site.
 - 2. The parcel identification number.
 - 3. The name of the owner or owner's agent.
 - 4. The location of the storm water system(s).
 - 5. A description of the current operational or functional status of the storm water system(s). For sediment control structures, an indication of used and remaining, capacity (fraction, percentage, depth or volume) shall be given to identify when the control must be cleaned out.
 - 6. Identification of any necessary repairs, sediment/debris removal or replacement of all or portions of the storm water system(s).
 - 7. The results of any field or laboratory analyses performed.
 - 8. Other relevant or unusual observations related to the system(s).
 - 9. Action plan to prevent premature storm water system failure as consistent with the Storm water Quality Management Permit provisions.
 - 10. Action plan to prevent the premature system failure that exceeds the Storm water Quality Management Permit provisions, but are necessary to prevent storm water pollution from leaving the site.

Section 11.24 Oversight Inspections

Floyd County shall have the authority to periodically inspect the site of land disturbing activities for which permits have been issued; may make inspections of the site at its discretion; and shall either approve the portion of the work completed or shall notify the permittee wherein the work fails to comply with the Grading

or Storm water Pollution Prevention Plans as approved or is ineffective (regardless of consistency with an approved Grading Plan).

The results of the inspections and findings will be presented and reviewed with the permittee at the time of inspection (as available to site personnel), and be available in the permit file within 7 days.

- A. In order to obtain inspections, the permittee shall the County at least two (2) working days before the following activities:
 - 1. Perimeter/Outfall Protection Permit Approval - Prior to the initiation of the project after perimeter protection erosion prevention and sediment control practices have been installed, but prior to disturbance of the remaining site.

Section 11.25 Bond release inspections.

Upon completion of the project in order to receive approval to cease permittee inspections in compliance with the *Storm water Quality Management Permit*.

- A. Floyd County may identify any repairs, sediment/debris removal or replacement of all or portions of the storm water system(s) necessary to comply with the objectives of this Article and the *Storm water Quality Management Permit*.
- B. Floyd County may develop and require the implementation of an action plan and compliance schedule that prevents the premature storm water quality management system failure as consistent with the Storm water Quality Management Permit provisions.
- C. Floyd County may develop and require the implementation of an action plan to prevent the premature system failure that exceeds the Storm water Quality Management Permit provisions, but are necessary to prevent storm water pollution from leaving the site.

Section 11.26 Maintenance

Maintenance must be performed under the direction and/or supervision of a Qualified Professional.

- A. Maintenance of erosion prevention, sediment control and pollution prevention practices shall be performed according to the Grading and Pollution Prevention Plans.
- B. Maintenance activities shall be performed in accordance with action plans developed through the course of permittee performed inspections. This may represent activities that exceed provisions of the Grading and Pollution Prevention Plans, but are necessary to prevent storm water pollution from leaving the site.

Section 11.27 Qualified Professional Registration and Certification

A Qualified Professional is required to perform routine inspections and direct and/or supervise maintenance activities to ensure that the Storm water Quality Management Permit provisions are being implemented properly.

All Qualified Professionals performing inspections or overseeing maintenance activities under this Article must be registered with Floyd County and certified prior to execution of those actions. All applicants must file an application with Floyd County. Applicants must demonstrate knowledge of 1.) construction practices,

2.) operational standards, 3.) cause and failure indicators and 4.) maintenance measures used to prevent and correct failures.

- A. Floyd County reserves the right to require that Qualified Professional applicants pay a registration fee.
- B. Floyd County reserves the right to require that Qualified Professional applicants satisfactorily complete an approved training course.
- C. Floyd County reserves the right to require that Qualified Professional applicants be re-certified as often as every 5 years.
- D. Floyd County reserves the right to require that Qualified Professional applicants successfully pass a written exam covering construction practices, operational standards, causes and indicators of storm water quality management system failures and corrective actions as approved by Floyd County.
- E. Floyd County may de-certify any Qualified Professional under one or more of the following circumstances:
 - 1. The individual fails to comply with this Article.
 - 2. Floyd County determines that the individual is not qualified to perform his duties hereunder.
 - 3. The individual is unable to properly perform an evaluation of a storm water quality management system.
 - 4. The individual is negligent in the discharge of his duties as outlined in the certification requirements.
 - 5. The individual submits false or misleading information.
 - 6. The individual fails to maintain the required certification as required by this Article.
- F. Floyd County shall give written notice to a Qualified Professional before being de-certified. The inspector shall be given an opportunity at an informal meeting to show cause why de-certification is not appropriate.
- G. A de-certified Qualified Professional may apply for re-certification after one (1) year.
- H. It shall be the responsibility of Floyd County to:
 - 1. Administer and enforce this Article.
 - 2. Develop and administer a process for certifying Qualified Professionals.
 - 3. Maintain a list of certified Qualified Professionals.
 - 4. Require corrective actions where there is evidence of a system failure.
 - 5. Establish criteria for the inspections and the certification of Qualified Professionals and make such criteria and related forms available to the public.

Section 11.28 Fees

Floyd County reserves the right to require fees to cover expenses, including but not limited to overhead, labor, storage, training, etc., associated with the certification, training and inspection process.

Fees shall be paid prior to a certification training course and/or exam.

Section 11.29 Enforcement

Floyd County may institute appropriate actions or proceedings by law or equity for the enforcement of this Article and shall, in each instance, be entitled to recover its costs and attorney fees. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, and other appropriate forms of remedy or relief. Each day of noncompliance is considered a separate offense; and nothing herein contained shall prevent Floyd County from taking such other lawful action as necessary to prevent or remedy any violation, including application for injunctive relief. Any of the following enforcement remedies and penalties may be applied independently, collectively, or in a sequence deemed necessary, shall be available to Floyd County in response to violations of this Article. If the Person, property or facility has or is required to have a storm water discharge permit from the IDEM, Floyd County shall alert the appropriate State authorities of the violation.

- A. Notice of Violation (NOV) – Whenever Floyd County finds that any Person owning or occupying premises has violated or is violating this Article or an order issued hereunder, the enforcement official may serve such person, personally, or by registered or certified mail, a written NOV. Within thirty (30) days of the receipt of this notice, or shorter period as may be prescribed in the NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions, shall be submitted to Floyd County. Submission of this plan shall not, however, affect liability for violations of this Article.
- B. Revocation of permit – Floyd County may revoke and require the surrender of a permit or certificate by notifying the permit holder, in writing, the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans or specifications; refusal or failure to comply with the requirements of State or local law; or, for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.
- C. Stop Work Order – Floyd County may issue a Stop Work Order and require that all activities cease.
- D. Compliance order – If any Person shall violate the provisions of this Article, Floyd County may give notice to the owner, responsible party, or to any Person in possession of the subject property ordering that all unlawful conditions existing thereupon be abated within a scheduled period defined from the date of such notice.
- E. The enforcement official shall have the authority to establish elements of a storm water pollution prevention plan and require any business to adopt and implement such a plan as may be reasonably necessary to fulfill the purposes of this Article. The enforcement official may establish the requirements of BMPs for any premises.
- F. If it is determined by Floyd County that the unlawful condition is such that there is an imminent danger or peril to the public, then Floyd County may, with or without notice, proceed to abate the same, with the costs of such abatement to be charged to the owner, responsible party, or against the property.

- G. Civil Penalties – Any Person that has been found to have violated any provision of this Article may be assessed a civil penalty not to exceed the lessor of (1) the amount presented in this subsection, or (2) the maximum amount permitted by law.
- H. The penalty shall increase by twenty-five percent (25%) of the previous penalty amount for every subsequent but separate offense made by the same Person. This penalty shall be in addition to other enforcement actions of this section.
- I. The penalty may be assessed for each day that the prohibited activity continues beyond those schedules set forth in compliance orders or other abatement schedules issued to the property owner, or other Person responsible, by Floyd County.
- J. In determining the amount of the penalty the Court shall consider the following:
 - 1. The degree and extent of the harm to the natural resources, to the public health, or to the public or private property resulting from the violation;
 - 2. The duration and gravity of the violation;
 - 3. The effect on ground or surface water quality;
 - 4. The cost of rectifying the damage;
 - 5. The amount of money saved by noncompliance;
 - 6. Whether the violation was committed willfully or intentionally;
 - 7. The cumulative effect of other enforcement actions applied for the same offense;
 - 8. The prior record of the violator in complying or failing to comply with the storm water quality management program; and
 - 9. The costs of enforcement to Floyd County.
- K. A civil penalty of not more than \$2,500.00 may be assessed for each of the following offenses:
 - 1. Development without permit. To engage in any development, use, construction, remodeling or other activity of any nature upon land or improvements thereon, subject to the jurisdiction of this Article without all required permits, certificates or other forms of authorization as set forth in this Article.
 - 2. Development inconsistent with permit. To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate or other form of authorization granted for such activity.
- G. Violation by act or omission.
- H. To violate, by act or omission, any term, variance, modification, condition or qualification placed by Floyd County or its designated representative upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.
- I. In the event there are penalties assessed by the State against Floyd County and resulting from a violation of this Article, the Person responsible for such violation may be assessed the lessor of (1) the amount of the penalty assessed as against Floyd County, or (2) \$2,500.00.
- J. Order to clean and abate/restore – Any violator may be required to clean and/or restore land to its condition prior to the violation.

- K. Cost Recovery - If corrective action, including maintenance delinquency, is not taken in the time specified or within a reasonable time, Floyd County may undertake the corrective action, and the cost of the abatement or corrective action shall be assessed against the responsibility party, owner of the premises and/or the developer. If these costs are not paid within (90) days of invoice, the enforcement official may initiate all appropriate legal actions to enforce the claim.
- L. Injunctions and/or proceedings at law or in equity – Any violation of this Article or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to State law.
- M. Civil Actions – In addition to any other remedies provided in this Article, any violation of this Article may be enforced by civil action brought by Floyd County. Monies recovered under this subsection shall be paid to Floyd County to be used exclusively for costs associated with implementing or enforcing the provisions of this Article. In any such action, Floyd County may seek, as appropriate, any or all of the following remedies:
- N. A temporary and/or permanent injunction;
- O. Assessment of the violator for the costs of any investigation, inspection or monitoring survey which lead to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection, to include reasonable attorney fees and costs of the action.
- P. Costs incurred in removing, correcting or terminating the adverse effects resulting from the violation;
- Q. Compensatory damages for loss or destruction to water quality, wildlife, fish and aquatic life.
- R. Emergency Orders and Abatements. Floyd County may order the abatement of any discharge from any source to the storm water conveyance system when, in the opinion of Floyd County, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, or welfare of the citizens of Floyd County, the environment, or is a violation of a NPDES permit. If such emergency situations occur and the property owner or other responsible party is unavailable or time constraints are such that service of a notice and order to abate cannot be effected without presenting an immediate danger to the public health, safety, or welfare, Floyd County may perform or cause to be performed such work as shall be necessary to abate said threat or danger. The costs of any such abatement may be recovered as in 10.29 (R).
- S. Remedies Not Exclusive. The remedies listed in this Article are not exclusive of any remedies available under any applicable Federal, State or local law and Floyd County may seek cumulative remedies.

Section 11.30 Compatibility and Severability

Should any article, section, subsection, clause or provision of this Article be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Article as a whole or any part thereof, other than the part declared to be unconstitutional or invalid, each article, section, clause and provision being declared severable.

If any provision of this Article is inconsistent with any other, law, regulation, statute, or ordinance; or results in the imposition of overlapping or contradictory regulations; or if this Article contains any restriction covering

any of the same subject matter of another law, regulation, statute, or ordinance, the provision which is most restrictive or imposes the highest standard or strictest requirement shall govern.

Section 11.31 Post Construction Site Runoff

This section shall control storm water activities associated with Post Construction Site Runoff Control of Floyd County, Indiana.

Section 11.32 Applicability

All new development and redevelopment activities that result in the disturbance of one (1) or more acres of land within Floyd County, Indiana, including land disturbing activities on individual lots of less than one (1) acre as part of a larger common plan of development of sale, shall develop a post-construction Storm Water Pollution Prevention Plan (SWPPP) which includes provisions necessary for minimizing the impacts of pollutants from the proposed land use.

Section 11.33 Post-Construction Storm Water Pollution Prevention Plan Requirements

- A. A *Storm Water Quality Management Permit* may only be issued after the review and acceptance of a Post-Construction SWPPP. The Post-Construction SWPPP is part of the *Storm Water Quality Management Plan* (SWQMP) and must include the following information:
 - 1. A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to storm water discharges.
 - 2. Location, dimensions, detailed specifications, and construction details of all post-construction storm water quality Best Management Practices (BMPs). Reference Section IV for acceptable storm water quality BMPs.
 - 3. A description of BMPs that will be installed to control pollutants in storm water discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strips and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and storm water retention and detention ponds.
 - 4. A sequence describing when each post-construction storm water quality BMP will be installed. Storm water quality BMPs that will remove or minimize pollutants from storm water runoff. Storm water BMPs that will be implemented to prevent or minimize adverse impact to stream and riparian habitat.
 - 5. A narrative description of the maintenance guidelines for all post-construction storm water quality measures to facilitate their proper long-term function. This narrative description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction storm water quality measures.

Section 11.34 Buffers: The SWPPP shall include provisions for buffers.

A. No-Disturbance Buffer

- 1. The No-Disturbance Buffer will be used to define areas where land disturbance activities

- shall not be permitted. Grading, clearing, and grubbing shall not be permitted in this area, but pruning, trimming, and partial removal of standing vegetation is permitted.
2. The no-disturbance waterway buffer shall be defined as 25 feet from the top of the waterway bank as defined by geomorphic shape (not by the current water surface elevation).
 3. The no-disturbance waterway buffer shall be applied to all waterways and drainage systems that drain more than 25 acres of contributing area or are represented on a United States Geological Survey map as a blue line stream.
- B. Waterway Buffer: The Waterway Buffer will be used to define areas where land disturbance activities shall be permitted, but construction of any building or structure shall not be permitted.
1. A waterway buffer shall be applied to all waterways serving more than 25 acres of tributary area or those represented on a United States Geological Survey map as a blue line stream.
 2. Automatic exemptions may be applied for the following (provided erosion prevention and sediment control, water quality, and cut-fill policies are adequately addressed):
 - a. roads and utilities crossing waterways.
 - b. pedestrian trails and walkways proximate to waterways.
- C. The waterway buffer shall be defined as the area contained within a boundary established 25-feet beyond the flood plain boundary as defined by FEMA or 50-feet from the top of waterway bank as defined by geomorphic shape (not by the current water surface elevation) which ever is larger. At a minimum the waterway buffer shall be at least the width of the no-disturbance buffer, if applicable.
- D. The waterway buffer and flood plain may be used for application of water quality devices. This may only be permitted provided erosion prevention and sediment control, water quality, and cut-fill policies are adequately addressed as determined by Floyd County according to the provisions of this Ordinance.

Section 11.35 Approved Storm water Best Management Practices (BMPs)

- A. The SWPPP shall include provisions for storm water quality BMPs functioning independently or in combination. Acceptable storm water quality BMPs include:
1. Vegetated Buffers
 2. Bioretention Swales
 3. Vegetated and Forested Buffer Strips
 4. Level Spreaders
 5. Infiltration Systems
 6. Dry Detention Ponds
 7. Wet Detention Ponds
 8. Retention Ponds
 9. Constructed and Pocket Wetlands
 10. Media Filtration and Screening Systems
 11. Baffle Boxes and Grit Separators
 12. Hydrodynamic Separator Systems
 13. Sediment Forebays
 14. Oil/Water Separators

15. Vault Storage / Infiltration BMPs (infiltration prohibited within wellhead protection areas)
16. Other measures reviewed and accepted by Floyd County.

Section 11.36 BMP Design Requirements and Criteria

- A. The SWPPP shall include provisions for storm water quality BMPs that are designed to achieve the following design / performance objectives:
 1. Reduce Total Suspended Solids (TSS) from the first flush as defined by land use characteristics and contributing area; or, capture and treatment of at least 0.5-inch precipitation applied over the contributing area. Reduce or buffer increases in storm runoff temperature caused by contact with impervious surfaces.
 2. Storm water detention/ retention facilities shall be designed to address the rate at which flow is released over the entire runoff discharge period and the volume of discharge over the critical design-storm period. The outlet structure shall be designed as a v-notch weir or other multiple stage configurations capable of controlling the discharge rates for the 2-, 10-, and 100-year design-storm events
- B. The *Indiana Drainage Handbook* or the *Indiana Storm Water Quality Manual* should be reviewed and considered when preparing the SWPPP.
- C. Floyd County reserves the right to develop or adopt other guidance documents to serve as design and implementation standards. Other guidance documents distributed by Floyd County should be reviewed and considered when preparing the SWPPP. These documents may be applied as standards by which designs are to be prepared and controls implemented. Floyd County shall have authority to implement this Ordinance by appropriate regulations, guidance, or other related materials. In this regard, technical, administrative, or procedural matters may be modified as needed to meet the objectives defined herein, so long as such modifications as to technical, administrative, or procedural matters are not contrary to or beyond the intent of the objectives defined herein.
- D. Regulations, guidance, or other related materials that may be given authority by this Ordinance may include, but are not limited to: Best Management Practice (BMP) manuals, design regulations and requirements, submission checklists, review checklists, inspection checklists, certifications, storm water management manuals and operation and maintenance manuals.
- E. Materials may include information deemed appropriate by Floyd County including guidance and specifications for the preparation of grading plans, selecting environmentally sound practices for managing storm water, minimum specifications and requirements, more complete definitions, and performance standards.
- F. The above referenced documents shall not in any way require specific commercially available products. However, they may refer to performance specifications, class of devices, construction, or management practice.
- G. The above referenced documents may restrict or prevent the use of specific products, techniques or management practices (that are to be accepted by the public or are deemed to have a negative impact on public infrastructure or the MS4) that have been identified as unacceptable for performance, maintenance or other technically based reasons.

- H. Documents referenced above may be updated periodically to reflect the most current and effective practices and shall be made available to the public. However, the failure to update the manual shall not relieve any applicant from the obligation to comply with this Ordinance, and shall not prevent Floyd County from imposing the most current and effective practices.
- I. Soil bioengineering, "green" and other "soft" slope and stream bank stabilization methods shall receive preference over rip rap, concrete and other hard armoring techniques. "Hard" alternatives shall only be permitted when their necessity can be demonstrated given site-specific conditions.
- J. Retention - Supportive data must be submitted to justify the type of facility selected. If the facility is designed to retain (volume control) all or a significant portion of runoff (as opposed to temporarily detain it), then appropriate soils analyses shall be submitted to Floyd County. This submission shall also discuss the impacts the facility will have on local karst topography as found through a geotechnical investigation of the site. The facility may be designed to infiltrate runoff to groundwater rather than transmit it downstream under conditions up to a 10-year storm event. It must be able to bypass all other storms up to a 100-year event with a discharge rate equivalent to or less than pre-development conditions without negatively impacting the 100-year flood plain above or below the site. If data indicates that the facility can not retain a significant portion of the runoff (95%) then the facility must be sized to detain runoff.
- K. Detention facilities may, and are encouraged to be designed to serve multiple purposes. For example, runoff may be detained under wet-weather conditions in facilities that also serve as common or recreational areas during dry-weather conditions. Where multi-purpose facilities are provided, or where flat grades or poorly draining soils are encountered, provisions for adequate low-flow storm water management systems may be required. Where the retention/ detention facility is planned to be used as a lake, pond, or storm water quality management practice with a permanent pool, water budget calculations shall be performed and submitted to demonstrate that an adequate pool is expected during dry summer months.
- L. A licensed Professional Engineer shall approve and sign all plans for construction, to include all proposed improvements or modifications to existing or new storm water infrastructure and other related improvements or modifications.
- M. Floyd County reserves the right to require supercede or additional treatment criteria or objectives for specific pollutant(s) as necessary to meet overall storm water quality management program objectives or directives under a watershed improvement or Total Maximum Daily Load (TDML) program.

Section 11.37 BMP Ownership and Easements

- A. Any storm water management facility or BMP which services individual property owners or subdivisions shall be privately owned. General routine maintenance (controlling vegetative growth and removing debris) shall be provided by the owner(s). The owner(s) shall maintain a perpetual, non-exclusive easement that allows access for inspection and emergency maintenance by Floyd County. Floyd County has the right, but not the duty, to enter premises for emergency repairs.
- B. Any storm water management facility or BMP which services an individual subdivision in which the facility or BMP is within designated open areas or an amenity with an established homeowners association shall be privately owned and maintained by the owner consistent with provisions of this Ordinance. The owner shall maintain a perpetual, nonexclusive easement which allows for access

for inspection and emergency maintenance by Floyd County. Floyd County has the right, but not the duty, to enter premises for emergency repairs.

- C. Any storm water management facility or BMP which services commercial and industrial development shall be privately owned and maintained. The owner shall maintain a perpetual, nonexclusive easement which allows for access for inspection and emergency maintenance by Floyd County. Floyd County has the right, but not the duty, to enter premises for emergency repairs.
- D. All regional storm water management control facilities proposed by the owner(s), if approved and accepted by Floyd County, shall, upon dedication as a public regional facility, be publicly owned and/or maintained.
- E. All other storm water management control facilities and BMPs shall be privately owned and/or maintained unless accepted for maintenance by Floyd County.
- F. Floyd County may require dedication of privately owned storm water facilities, which discharge to the Floyd County storm water system.

Section 11.38 Coordination with Regional BMPs

- A. All property owners are expected to implement adequate on-site storm water quality control measures, but the extent thereof may be reduced given the availability, proximity, and nature of regional storm water quality BMPs.
- B. The extent and type of on-site storm water quality management practices implemented must be proportionate to the land use, pollutant discharge potential, and proximity to regional storm water quality management practices.
- C. For properties where storm water quantity management practices are either not feasible, or not necessary in lieu of regional storm water quantity controls, Floyd County has the right to require on-site controls for storm water quality.
- D. Floyd County encourages regional storm water quantity and/or quality management practices, serving 25 to 250 acres of tributary area, which may be consistently and efficiently managed and maintained. These types of practices will be encouraged in order to replace or reduce the implementation of on-site storm water quantity and/or quality management practices, as determined to be appropriate by Floyd County.
- E. Where a regional storm water management facility has been established by 1 or more local governments, or by an authority operating on behalf of 1 or more local governments, a development or property owner may participate in said program in lieu of runoff control required by this Ordinance.

1. This may be permitted provided that:

- a. Runoff from the development drains to an approved existing or proposed public regional storm water management facility that will be operational within 1 year of commencement of development.
- b. The total value of such participation by contribution of funds, contribution of land,

contribution of storm water management facility construction work, or a combination of these, shall equal or exceed the appropriate fee imposed or to be imposed by Floyd County with respect alternative private controls.

- c. Floyd County finds that the storm water quality management plans are in compliance with all other applicable requirements and Ordinances.
 - d. Each fiscal or in-kind contribution from a development owner participating in a regional storm water quality management facility shall be used for acquisition, design, construction or maintenance of one (1) or more such facilities in the same watershed in which the development is located.
2. Redevelopment of properties containing on-site storm water quantity management practices may be permitted, at the discretion of Floyd County, provided the subject property and downstream public and private properties, infrastructure or "Waters of the State" are adequately protected by a regional facility(s) from storm water quantity or quality impacts.

Section 11.39 Coordination with Master Plans and Watershed Studies

- A. If available, each SWPPP shall be evaluated for consistency with the storm water master plan or watershed study for the major watershed or watersheds within which the project site is located. The individual project evaluation will determine if storm water quantity and quality management practices can adequately serve the property and limit impacts to downstream public and private properties. The presence of a regional facility(s) will be considered in determining the extent to which quantity and/or quality controls will be necessary.
- B. Special design criteria or requirements may be applied to storm water quality BMPs based on the direction or results of Master Plans, Watershed Studies and/or Total Maximum Daily Load (TMDL) requirements.

Section 11.40. Storm Water Quality Management Plan Permit Closure

- A. A SWQMP shall be considered open and active until the time when Floyd County accepts the site conditions, as-built requirements have been completed, and a *Long-Term Operation and Maintenance Agreement* has been accepted.
- B. Acceptance of site conditions shall be made by Floyd County through inspection. If any of the following items are deemed to be insufficient, not appropriate, and/or inconsistent with the SWPPP or objectives stated in this Ordinance, then approval will not be granted.
- C. Pipes, channels, catch basins, water quality treatment devices, and other infrastructure are clear of sediment, obstructions, and debris, and are designed and operating as appropriate for final site conditions.
- D. Slopes are permanently stabilized.
- E. Temporary erosion prevention or sediment control devices (such as silt fence and staking, outlet protection, etc.) have been removed (as appropriate) and any resulting soil disturbance stabilized.
- F. Temporary pollution prevention practices have been demobilized, removed, and/or affected areas

stabilized.

- G. Sediment has been removed and slopes stabilized for permanent flood control and water quality control practices.
- H. Detention pond grading is stabilized and/or excess sediment removed so that actual volume is at least equal to design volume and condition.
- I. Other items as deemed important by Floyd County.

Section 11.41 As-Built Requirements

- A. Prior to issuance of a use and occupancy permit, or final release of bond, the as-built condition, including invert elevations, size, shape, and location of critical storm water management features, must be identified and approved.
- B. The volume, slopes, configuration, condition, and topographic information of all detention, retention, and water quality practices shall be certified by a licensed Professional Engineer. This information shall be provided to Floyd County in the form of an as-built drawing or other electronic form accepted/required by Floyd County. The as-built certification shall indicate if final conditions are consistent with, or exceed, the SWQMP provisions.
- C. If it is determined that information provided in the as-built drawing, certification, inspection or survey of the site do not meet or exceed the SWQMP provisions, Floyd County reserves the right to withhold certification of occupancy or release of final bond. Furthermore, other enforcement mechanisms, as identified within this Ordinance, may be initiated to insure compliance.
- D. If upon inspection by Floyd County, or its designated representative, it is determined that acceptance of site conditions is inappropriate by virtue of deficiencies, the permittee shall continue inspections and maintenance, as described in the SWQMP, pending such acceptance.

Section 11.42 Long-Term Operation and Maintenance

- A. A *SWQMP* may not be closed until a *Long-Term Operation and Maintenance Agreement* has been accepted by Floyd County.
- B. *Long-Term Operation and Maintenance Agreements* shall include a maintenance plan for all storm water quality BMPs in new development or redevelopment that require more than general maintenance (e.g., periodic mowing).
- C. The plan will be developed to ensure that the storm water quality BMPs are kept functional. The maintenance agreement will specify minimum operation and maintenance requirements and intervals to be performed by the property owner.
- D. The plan shall address schedules for inspections and techniques for operation and maintenance including vegetation clearing or mowing and removing accumulated trash, debris, sediment pollutants and other forms of pollution.
- E. The agreement shall be noted on the final plat with the appropriate notation on the particular lot(s).
- F. The agreement shall be recorded so as to be binding on the OWNER, its administrators, executors,

assigns, heirs, and any other successors in interest.

- G. A suggested format for the *Long-Term Operational and Maintenance Agreement* is included in Appendix C.
- H. Provisions shall be made to assure that Water Detention and Retention facilities do not become nuisances or health hazards. Detention and retention facilities should be designed to require minimal maintenance, and maintenance expectations must be clearly stated in a *Long-Term Operation and Maintenance Agreement*.
- I. When a storm water quality BMP serves more than (1) parcel, an owners' association or binding contract for the purpose of operation and maintenance is required. The owners association shall be responsible for operation and maintenance as directed by this Ordinance.
- J. The maintenance responsibilities for permanent storm water quality BMPs shall be determined based upon the type of ownership of the property which is controlled by the facilities.
- K. Single entity ownership – Where the permanent storm water runoff control facilities are designed to manage runoff from property in single entity ownership, the maintenance responsibility for the storm water control facilities shall be with the single entity owner.
- L. A single entity shall be defined as an association, public or private corporation, partnership firm, trust, estate or any other legal entity allowed to own real estate, exclusive of an individual lot owner.
- M. The stated responsibilities of the entity shall be documented in the form of a *Long-Term Operation and Maintenance Agreement*. Terms including ownership, operation, and maintenance of the facilities shall be submitted with an application for a SWQMP, so as to permit a determination of adequacy. Approval of a *SWQMP* shall be conditioned upon the approval of the Agreement, which shall be in writing and recordable form, and shall, in addition to any other terms deemed necessary by Floyd County, contain a provision permitting inspection of all facilities at any reasonable time by Floyd County.
- N. As a condition for approval of the storm water quality BMPs by Floyd County, the facility owner(s) shall demonstrate the ability to guarantee and apply the financial resources necessary for long-term maintenance requirements. Floyd County will accept a funding mechanism for long-term maintenance responsibilities only if same can be demonstrated to be permanent or transferable to another entity with equivalent longevity.
- O. In the event that proposed funding is through an owners association, it must be demonstrated that the association may not be dissolved unless long-term operation and maintenance activities are accepted by another entity with equivalent longevity and adequate funding. Furthermore, the owners association's responsibility must be stated in the association's declaration, covenants, or by-laws, as appropriate.
- P. Unless made specifically clear in the preliminary stages of the site design and construction plan review procedure, it will be assumed that all storm water detention, retention, treatment or storage facilities and/or devices shall be owned, operated and maintained by a single entity as defined above.

- Q. Floyd County Ownership – Where Floyd County has accepted an offer of dedication of permanent storm water quality BMPs, Floyd County shall be responsible for operation and maintenance.
- R. Maintenance Bond – Floyd County may require the posting of a maintenance bond to secure the structural integrity of said facilities as well as the functioning of said facilities in accordance with the approved *SWQMP* for a term of 18 months from the date of acceptance of dedication. Floyd County may approve a cash contribution in lieu of a maintenance bond, provided that the contribution be approximately equivalent to the amount that would be estimated for such bond.

Section 12.01 Sounds- Purpose and Intent

This section applies to all zoning districts within the jurisdiction of the Floyd County Plan Commission. The control and regulation of certain sounds emanating from residential and commercial property and public rights of ways is deemed proper and necessary to prevent excessive noise, sound trespass (nuisance sound), and unnecessary disturbances to the peace and tranquility of the community, and such control and regulation is further deemed necessary to protect the health, well-being, and quality of life of the citizens of Floyd County, Indiana, and those persons who shall travel the streets, roads, and highways located therein. It is, therefore, the intent of this ordinance to encourage practices which will minimize sound pollution, noise, and sound trespass; promote harmony within the community; and assure the safety, security, and productivity of all persons.

The terms and provisions of this ordinance shall be deemed an amendment to and become a part of Floyd County Zoning Ordinance A67-4, as said ordinance became effective on September 5, 1967, and as said ordinance has been heretofore amended from time to time.

Section 12.02 Application and Jurisdiction

This ordinance and the rules, regulations, and requirements herein contained shall be applicable within the planning jurisdiction of the Floyd County Plan Commission, namely, in those unincorporated areas of Floyd County, Indiana, which lie outside of the legally acquired planning areas of the Civil City of New Albany and the town of Georgetown, Indiana, all as such and similar planning areas may be established and modified, from time to time, in accordance with the provisions of IC 36-7-4, et seq.

Section 12.03 Prohibited Acts

No owner, tenant, or occupant of real property shall operate, use, or play thereon, or cause or permit the operation, use, or playing thereon of any machine, instrument, or device intended for the production or reproduction of sound, including, but not limited to, stereo systems, phonographs, CD players, DVD players, cassette players, television sets, radios, public address systems, loud speakers, musical instruments or similar apparatus or appliances, if the sound generated or produced thereby is audible at a distance of 50 feet or more from the boundary of said property.

No person who shall travel upon, occupy, or otherwise make use of the right of way of any public highway, street, road, alley, or sidewalk, shall operate, use, or play thereon any machine, instrument, or device intended for the production or reproduction of sound, including, but not limited to stereo systems, phonographs, CD players, DVD players, cassette players, television sets, radios, public address systems, loud speakers, musical instruments or similar apparatus or appliances, if the sound generated or produced thereby is audible at a distance of 50 feet or more from the source thereof.

Section 12.04 Exemptions

The listed Sounds, when customarily associated with, incidental to, and within the normal auditory range of the following sources, are exempted from the prohibitions of this Ordinance:

- A. Those emitted by fire, police, and other public safety and emergency vehicles.
- B. Those emanating from a public or private warning device or burglar alarm.
- C. Those associated with legal fireworks.

- D. Those related to athletic events sponsored by a public, non profit, or religious agency or entity; church bells and liturgical music.
- E. Those arising from events authorized or approved by the Board of Commissioners of the County of Floyd, or declared exempt by said board.
- F. Those resulting from an auction of real or personal property conducted by a licensed auctioneer.

Section 12.05 Enforcement

Except as otherwise expressly set forth herein, and except in those instances of a violation of a statute, rule, or regulation having an established penalty or remedy therefore, enforcement of this Ordinance as against a person violating the terms and provisions of same shall be in accordance with the provisions of I.C. 34-4-32, et seq. An action to enforce this ordinance shall be brought in the name of Floyd County, Indiana, or the Floyd County Plan Commission, as appropriate, and upon proof by a preponderance of the evidence of a violation hereof, judgment shall be entered against the defendant for a sum of not less than \$50.00 nor more than \$1,000.00 for each violation. A separate violation of this Ordinance shall be deemed to occur for each day that a person shall be in violation of the terms and provisions hereof.

In addition to the remedy set forth in paragraph 1 of Section 12.05, an action may be brought for mandatory or injunctive relief as against any person violating the terms and provisions of this Ordinance, which action shall be brought in the name of Floyd County, Indiana, or the Floyd County Plan Commission, as appropriate.

An action under paragraph 1 of Section 12.05 may be joined with an action under paragraph 2 for injunctive relief, the county shall be entitled to any judgment in favor of the Plaintiff there shall be added costs of the action, reasonable attorney fees, and expenses incurred in the successful enforcement of this Ordinance.

In all actions under this Article, Floyd County, Indiana, and/or the Floyd County Plan Commission, shall be represented by the attorney retained by said Plan Commission.

Section 12.06 Miscellaneous Provisions

Should any term or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such determination shall not affect the remainder of this Ordinance which shall remain in full force and effect.

In the interpretation and application of this Ordinance, the masculine form shall mean and apply to the feminine, and the singular form shall mean and apply to the plural. The title hereof and those of all Articles of this Ordinance shall be disregarded

Any provision of any ordinance, rule, or regulation heretofore adopted by the Board of Commissioners of the County of Floyd which is inconsistent or in conflict with this Ordinance is hereby repealed.

This Ordinance shall be in full force and effect on an after it passage and publication as required by law.

Section 13.01 Lighting Purpose and Intent

This section applies to all zoning districts within the jurisdiction of the Floyd County Plan Commission. The control and regulation of certain outdoor lighting practices is deemed proper and necessary to prevent misdirected or excessive light or glare, light trespass (nuisance light), and/or unnecessary sky glow, and such control and regulation is further deemed necessary to protect the health, well-being, and quality of life of the citizens of Floyd County, Indiana, and those persons shall travel the streets, roads, and highways located therein. It is therefore, the intent of this ordinance to encourage lighting practices which will minimize light pollution, glare, and light trespass; promote the conservation of energy; and assure the safety, security, and productivity of all persons.

Section 13.02 Exemptions

The following illuminating devices are expressly exempted from the application of this ordinance.

- A. All light sources located within a building or other enclosed structure.
- B. A residential light source utilizing an incandescent lamp of less than 160 watts, but not including flood or spot lights.
- C. A manually switched residential light source or one activated by a motion sensing device (including flood or spot lamps) used to illuminate a residential dwelling, farm building, or other structure and/or surrounding grounds, but only if used intermittently, for brief intervals, as emergency or security lighting.
- D. A light source of any description which is at least partially shaded and which is not otherwise prohibited by this ordinance, if located so as not to produce illumination which is visible from an adjoining occupied property or public street or highway.
- E. An outdoor fixture producing light directly by the combustion of natural gas or other fossil fuels.
- F. Traffic control lighting fixtures to include street lighting erected by or at the instance and request of a governmental entity.
- G. Outdoor lighting fixtures utilizing gas tubes filled with neon, argon, krypton or similar gas.

Section 13.03 Conformance

All non-exempt outdoor illuminating devices shall be installed, operated, and maintained in accordance with this ordinance, and the laws, rules, codes, and regulations of each local, state, or federal entity or agency having jurisdiction, if any, provided, any such non-exempt illuminating device in use as of the effective date of this ordinance shall not be deemed to violate the shielding, line of sight, or maximum illumination requirements or limitations of this ordinance if:

- A. There is no change in use of the device or bulb type, and
- B. Devices used to illuminate outdoor advertising signs are brought into compliance with said requirements and limitations on or before the third anniversary of the effective date of this ordinance, and any other non-exempt device is brought into compliance on or before the seventh anniversary of such date.

Section 13.04 Prohibited Acts

It shall be a violation of this ordinance for any person, firm, partnership, joint venture, corporation or other legal entity:

- A. To erect, operate, or maintain any non-exempt outdoor illuminating device except in accordance with the provisions of this Ordinance.
- B. To install, erect, or maintain any non-exempt outdoor illuminating device which shall not be shielded as follows:

FIXTURE LAMP TYPE	SHIELDING
Low Pressure Sodium	Partially
High Pressure Sodium	Partially*
Quartz	Fully
All Other Lighting Sources	Fully**

* 100 watts or less used for residential security

** Outdoor advertising signs constructed of translucent materials and wholly lighted from within needed not be shielded.

- C. To erect, operate, or maintain one or more non-exempt outdoor illuminating devices shall, in aggregate, create a maximum illumination which exceeds 0.1 horizontal foot-candles and 0.1 vertical foot-candles, as measured: (1) at a distance of 5 feet within the property line of an adjacent (occupied) residential parcel, or (2) at a distance of 10 feet from property line of an adjacent (occupied) commercial or industrial parcel, or (3) from the traveled portion of a public street, road, or highway.
- D. To erect, operate, or maintain a non-exempt outdoor illuminating device which permits a line of sight to its bulb by an observer who is level with or higher than the ground below the fixture, if viewed from a distance of 5 feet within the property line of an adjacent (occupied) residential parcel or from the traveled portion of a public street, road, or highway.
- E. To illuminate any outdoor advertising sign by means of one or more outdoor illuminating devices which; (1) are not mounted on or at the level of the top of the sign structure, or (2) permit line of sight to its bulb when viewed at the edges of the sign or beyond, or (3) that create, in aggregate, a maximum illumination on the vertical surface of the sign which exceeds 3.0 foot candles.
- F. To erect, install, operate, or maintain on any telephone, television, radio, microwave, electrical transmission, or similar tower or structure, any outdoor illuminating device which: (1) is not required by local, state, or federal agency or entity having jurisdiction, or (2) which produces an illumination which exceeds the minimum required by such agency or entity or (3) which is not red in color, unless a color other than red is required by such agency or entity.
- G. To create a unified and consistent lighting package for the development. The lighting standards in parking areas shall not exceed 20 feet in height. (*Amended 1*)

Section 13.05 Special Exceptions and Appeals

Any person aggrieved by the strict application of the terms of this ordinance may appeal the application thereof to the Floyd County Board of Zoning Appeals, and any such application shall be deemed a special exception and shall be governed by the provisions of Indiana Code 36-7-4-900, et seq., the provisions of Floyd County Ordinance A 67-4, as amended, and the provision of this ordinance.

Section 13.06 Enforcement

- A. Except as otherwise expressly set forth herein, and except in those instances of a violation of a statute, therefore, enforcement of this Ordinance as against a person violating the terms and provisions of Indiana Code 34-4-32, et seq. An action to enforce this ordinance shall be brought in the name of the Floyd County Plan Commission, or Floyd Board of Zoning Appeals, as appropriate, and upon proof by preponderance of the evidence of a violation hereof, judgment shall entered against the defendant for a sum of not less than \$50.00 nor more than \$1,000.00 for each violation. A separate violation of this ordinance shall be deemed to occur for each day that a person shall be violation of the terms and provisions hereof.
- B. In addition to the remedy set forth previously paragraph, an action may be brought for mandatory or injunctive relief as against any person violating the terms and provisions of this Ordinance, which action shall be brought in the name of Floyd County, Indiana, or the Floyd County Plan Commission, or the Floyd County Board of Zoning Appeals, as appropriate.
- C. To the extent permitted by law and this Ordinance, an action under section 13.06 (A) of this article may be joined with an action under section 13.06 (B), and to any judgment in favor of the Plaintiff there shall be added costs of the action, reasonable attorney fees, and expenses incurred in the enforcement of this Ordinance.
- D. In all actions under this Article, Floyd County, Indiana and/or Floyd County Plan Commission, and/or the Floyd County Board of Zoning Appeals shall be represented by the attorney retained by said Commission or Board of Zoning Appeals.

Section 14.01 Sexually Oriented Businesses Purpose

It is the purpose of this section of the Floyd County Zoning Ordinance to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of Floyd County and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the County. The provisions of this section do not have the purpose or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Further, it is not the intent of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.

Section 14.02 Findings

The Floyd County Plan Commission and Floyd County Commissioners has received substantial evidence concerning the association of negative secondary effects with sexually oriented businesses in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Tucson, Arizona; Los Angeles, California; Whittier, California; Indianapolis, Indiana; Minneapolis, Minnesota; St. Paul, Minnesota; New York, New York; Cleveland, Ohio; Oklahoma City, Oklahoma; Amarillo, Texas; Austin, Texas; Beaumont, Texas; Houston, Texas; and Seattle, Washington.

Section 14.03 Sexually Oriented Business Classifications

A. Sexually Oriented Businesses are classified as follows and/or any combination of classifications set forth in subsection (1) through (5) above:

1. adult cabarets;
2. adult media stores;
3. adult novelty stores;
4. adult motion picture theaters;
5. adult theaters;

B. The following Sexually Oriented Businesses are prohibited.

1. adult arcades;
2. adult motels;
3. sexual encounter places;

Section 14.04 Permitted Zoning District(s)

Sexually Oriented Business shall be permitted in the following zoning districts: (HS) Highway Service and (GI) – General Industrial. All sexually oriented businesses shall comply with the restrictions contained within this Ordinance.

- A. No sexually oriented business may be established or operated within 1500 feet of the following uses/activities. For the purpose of this subsection, measurement shall be made from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of any of the following

activities/use listed below and following the routes of property lines along public rights-of-way (to approximate pedestrian distances).

1. A church, synagogue, mosque, temple or other houses of worship building(s) which is used primarily for religious worship and related religious activities.
 2. A public or private educational facility that serves persons younger than 18 years of age, including but not limited to nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.
 3. Any property containing a day-care facility as defined in Indiana Code.
 4. Any private property containing a community/recreation center that regularly serves persons younger than 18 years of age;
 5. A public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the County which is under the control, operation, or management of the County Parks Department, the Board of Education, or another public entity;
- B. No sexually oriented businesses may be established or operated on any lot within the defined boundaries of the County's Gateway Overlay Districts as set forth in this Ordinance.
- C. No sexually oriented businesses may be established or operated within 200 feet of a boundary of a residential district as defined in this Ordinance and any structure that contains a permitted or conditionally permitted residential use or a legally non-conforming residential use as defined in the Ordinance. For the purpose of this subsection, measurement shall be made from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of any sexually oriented businesses defined in 14.03 and following the routes of property lines along public rights-of-way (to approximate pedestrian distances).
- D. No sexually oriented businesses may be established, operated or enlarged within 1,500 feet of other sexually oriented businesses. For the purpose of this subsection, measurement shall be made from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of any sexually oriented businesses defined in 14.03 and following the routes of property lines along public rights-of-way (to approximate pedestrian distances).
- E. Not more than 1 sexually oriented business shall be established or operated in the same building, structure, or portion thereof and the floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business may not be increased. For purposes of this subsection of this Section, the distance between any 2 sexually oriented businesses shall be measured from the closest exterior wall of the structure in which each business is located, following the routes of property lines along public rights-of-way (to approximate pedestrian distances).

Section 14.05 Site Design Guidelines for Sexually Oriented Businesses

- A. Parking for a sexually oriented business(es) shall be configured so as to prevent vehicular headlights from shining into adjacent residentially zoned and/or used property. Parking areas configured such that vehicular headlights are directed toward public rights-of-way across from residentially zoned and/or used property shall provide continuous screening and shall conform to the design requirements. Landscaping and screening shall be continuously maintained and promptly restored, if necessary, pursuant to the landscaping requirement set out in this Ordinance.
- B. Ingress and egress drives and primary circulation lanes shall be located away from residential areas where practical; to minimize vehicular traffic and noise which may become a nuisance to adjacent residential areas.
- C. All building entrances intended to be utilized by patrons shall be located on the side(s) of the building which does not abut residentially zoned and/or used property, whenever possible, to minimize the potential for patrons to congregate and create noise which may become a nuisance to adjacent residential areas.
- D. All exterior site and building lighting shall comply with the lighting standards as set forth in this Ordinance.
- E. No person(s) shall perform live entertainment for patrons of an sexually oriented business(es) except upon a stage at least 18 inches above the floor which is separated by a distance of at least 6 feet from the nearest area occupied by patrons, and no patron shall be permitted within 6 feet of the stage while the stage is occupied by an entertainer.
- F. Separate dressing room facilities for entertainers which are exclusively dedicated to the entertainers' use.
- G. A separate entrance shall be provided for entertainers which can not be used by patrons.
- H. Delivery trucks shall only be permitted between the hours of 8:00 a.m. and 9:00 p.m.
- I. No merchandise or pictures of the products or entertainment on the premises of a sexually oriented business shall be displayed on signs and/or in window areas.
- J. Window areas of a sexually oriented business shall not be covered or made opaque in any way. No signs shall be placed in any window. A 1 square foot sign shall be placed on the door to state hours of operation and admittance to adults only.
- K. All restrooms in sexually oriented businesses shall be equipped with standard toilets, sinks and other traditional lavatory facilities. No live performances shall be provided or allowed at any time in the restrooms of a sexually oriented business. Separate male and female restrooms shall be provided. (*Amended 1*)
- L. The premises of every sexually oriented business shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illumination level not less than five (5.0) foot-candles as measured at floor level. The illumination described in this ordinance shall be maintained at all times that any patron is present in the premises. (*Amended 1*)

Section 14.06 Licensing Sexually Oriented Businesses

Sexually oriented businesses as described in the Ordinance herein shall be licensed pursuant to the Floyd County Licensing Ordinance.

Section 15.01 Authority

The Plan Commission, Board of Zoning Appeals, Planning Director, and/or their designees are designated to enforce the provisions, regulations, and intent of this Ordinance. All remedies and enforcement shall comply with the powers set forth in Indiana Code 36-7-4-1000 et al. and all other applicable state laws.

Section 15.02 Violations

Complaints made pertaining to this Ordinance shall be investigated by the Planning Director. Also, any violations suspected by the Plan Commission, Board of Zoning Appeals, or Planning Director shall be investigated. Action may or may not be taken depending on the findings. The degree of action will be to the discretion of the Planning Director and/or Board of Zoning Appeals and should reflect what is warranted by the violation.

Section 15.03 Types of Violations

The following items in addition to any other violation(s) of other local ordinances shall be deemed zoning violations. These violations shall be enforceable by the Plan Commission, Board of Zoning Appeals, and/or the Planning Director. Penalties may be imposed based on the provisions set forth in this section.

- A. The maintenance of a primary structure, accessory structure, sign, or any other element determined by the Planning Director that does not conform to the provisions or explicit intent of the Zoning Ordinance.
- B. Failure to Obtain an Improvement Location Permit when required by Ordinance;
- C. Conducting a use or uses that do not comply with the provisions or explicit intent of the Ordinance.
- D. Any failure to comply with the development standards and/or regulations of this Ordinance.
- E. Proceeding with Work under a Stop Work Order or a violation of a memorandum of Agreement; and any failure to comply with the commitments or conditions made in connection with a re-zoning, special use, variance or other similar or documented commitment, including verbal agreements during official Plan Commission, Board of Zoning Appeals, and/or County Commissioners' meetings.

Section 15.04 Liability

A Structure that is raised or converted, or land used in violation of this Ordinance or its subsequent amendments may be deemed a common nuisance, and the owner or possessor of the structure or land is liable for the nuisance.

Section 15.05 Procedure for Violations

There shall be a two step procedure for violations of this Ordinance. These steps are as follows:

- A. The Planning Director and/or Building Commissioner shall issue a Notice of Violation to the person(s) who has committed in whole or part a violation. The Notice of Violation is a warning to the violator(s) that a violation has been determined and that it must be corrected within 15 calendar days of the mailing date or posting of notice.

- B. If the person(s) in violation refuses to pay, comply with the penalties, or correct the violation, after the notice has been given, the Board of Zoning Appeals may pursue court action. Fines and liens against the property may also be pursued until the matter is resolved. **(Amended 3)**
- C. In the opinion of the Planning Director and/or Building Commissioner, if an emergency situation arises with a structure or use that is an immediate risk to the public health, safety or welfare, the Planning Director and/or Building Commissioner shall have the right to seek immediate relief to remedy the situation.

Section 15.06 Types of Petitions and Permit Applications

All applications shall be obtained through the Plan Commission Office. Fees shall be paid at the Plan Commission Office at the time petition and permit applications are submitted.

- A. All applications shall be made on forms provided by the Planning Director. All petitioners and permit applicants shall submit original applications which are completed in their entirety either in ink or typed. All applications shall be signed.
- B. All petitioners and applicants shall submit copies of the applications and necessary attachments as required by the Planning Director and the applicable Rules and Procedures of the Plan Commission and Board of Zoning Appeals.
- C. All petitions and permit applications shall be assigned reference and/or docket numbers by the Planning Director. Petition applications shall be scheduled by the Planning Director for appropriate public hearings based on a properly completed application consistent with the requirements of this Section and the appropriate calendars of filing and meeting dates for the Board of Zoning Appeals, Plan Commission and County Commissioners.

Section 15.07 Schedule of Fees

The Plan Commission shall maintain an official Fees Schedule for permits and processes outlined in this Ordinance. The Fees Schedule shall be available to the public in the Plan Commission Office. The Fees Schedule may be amended by a recommendation submitted to the County Commissioners by the Plan Commission. The County Commissioners may approve, reject or amend recommendations.

All applicable fees are attached to this Ordinance in Appendix D.

- A. No action will be taken on any petition, appeal or permit application until all applicable fees, charges, and expenses must be paid in full.

Section 15.08 Administrative Appeal Process

This following procedure shall apply to all appeals of administrative decisions.

- A. The petitioner shall submit an administrative appeal application and required supportive information in accordance with Indiana Code 36-7-4-918.1. Supportive information shall include, but, not be limited to the following:
 - 1. Copies of materials submitted to the staff members or administrative board upon which the decision being appealed was based.

2. Copies of any written decisions which are subject to the appeal.
 3. A letter describing the reasons for the appeal noting specific sections of this Ordinance, Indiana State Code, or other standards applicable to Floyd County upon which the appeal is based.
- B. Notification for the scheduled public hearing regarding the administrative appeals request shall be completed consistent with the Rules and Procedures of the Floyd County BZA and Indiana Code.
- C. The Board of Zoning Appeals will act in accordance with the requirements set forth in Indiana State Code 36-7-4-919 and 36-7-4-920.
1. The appeal shall be approved if the findings of fact fail to support the administrative decision.
 2. The appeal shall be denied if findings of fact are made supporting the administrative decision.
 3. The appeal shall be tabled consistent with the Rules and Procedures of the Board of Zoning Appeals.

Section 15.09 Conditional Use Petition

The following procedure applies to conditional use petitions. The following procedure for a conditional use shall follow the Indiana Code 36-7-4-918.2

- A. The petitioner shall submit a conditional use application, affidavit and consent of property owner if the owner is someone other than the petitioner, a deed for the property involved, the required filing fee, and supportive information. Supportive information shall include, but not be limited to the following.
1. A site plan drawn to scale, signed, and dated which clearly shows the entire layout of the property and all features relevant to the variance request.
 2. The applicant shall describe the details of the conditional use being requested and state how the request is consistent with the required findings of fact described in this Ordinance. The applicant should include any written commitments being made by the petitioner.
 3. For proposals using septic systems, a letter from the Floyd County Health Department shall be provided verifying that any proposed development makes appropriate use of the septic system.
 4. For proposals using sanitary sewer systems, a letter from the service provider shall be included verifying that any proposed new development will be served and the service provider must provide the following:
 - a. Present and to date average daily capacity figures
 - b. All required IDEM monitoring reports for last twelve months including any violations noted by IDEM

- c. All proposed developments including estimated amounts of daily usage that the service provider has agreed to service.
 - d. Estimated daily use for proposed development
- B. Notification for the scheduled public hearing regarding the conditional use request shall be completed consistent with the Rules and Procedures of the Floyd County Board of Zoning Appeals and the Indiana Code
- C. The BZA may take action on the petition in accordance to IC 36-7-4-918.2 and the Rules of Procedure of the Board of Zoning Appeals.
 - 1. The petition shall be approved if the findings of fact are made consistent with the requirements of this Ordinance and Indiana State Code. Those requirements are stated below.
 - a. The conditional use will not be injurious to the public health, safety, moral, and general welfare of the community.
 - b. The use and value of area adjacent to the property will not be adversely affected.
 - c. The need for the conditional use does not result from any conditions, unusual or peculiar to the subject property itself.
 - d. The strict application of the terms of the Floyd County Zoning Ordinance would result in an unnecessary hardship in the use of the property.
 - e. The approval of the conditional use will not contradict the goals and objectives of the Floyd County Comprehensive Plan.
 - 2. The petition may be approved with conditions if the BZA determines that the required findings of fact may be made if such conditions shall necesiated the compliance with the spirit and intent of the ordinance are applied to the petition. The BZA may make reasonable conditions related to the required findings of fact part of its approval or accept written commitments from the petitioner.
 - 3. The board may accept written commitments regarding the application for a conditional use.
 - 4. The petition shall be denied if findings of fact consistent with the requirements of this Ordinance and Indiana State Code are not made. Petitions which are denied shall not be eligible for consideration again by the BZA for a period of 1 year from the date of denial.
 - 5. The petition may be tabled when necessary if consistent with the Rules and Procedures of the Board of Zoning Appeals.
 - 6. Applicants and/or interested parties are encouraged to tender proposed findings of facts for the establishing compliance or non-compliance of the Ordinance

15.10 Development Standards Variance Process

The following procedure for a variance of Development Standards shall follow the requirements set forth Indiana Code 36-7-4-918.5.

- A. The petitioner shall submit a variance application, affidavit and consent of property owner if the owner is someone other than the petitioner, a deed for the property involved, the required filing fee, and any exhibit(s) in support of the variance.
- B. A site plan drawn to scale, signed, and dated which clearly shows the entire layout of the property and all features relevant to the variance request.
- C. The applicant shall describe the details of the variance being requested and stating how the request is consistent with the required findings of fact described in this Ordinance. The applicant should include any written commitments being made by the petitioner.
- D. A letter from the Floyd County Board of Health indicating that the variance will not negatively affect the operation of a septic system.
- E. Notification for the scheduled public hearing regarding the variance request shall be completed consistent with the Rules and Procedures of the Floyd County Board of Zoning Appeals and Indiana Code.
- F. The BZA may take action on the petition in accordance to IC 36-7-4-918.5
 - a. The petition shall be approved if the findings of fact are made consistent with the requirements of this Ordinance and Indiana State Code standards as follows:
 - a. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.
 - b. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - c. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property.
 - d. Any structure involving a structure regulated under Indiana Code 8-21-10 must meet the requirements set forth in Indiana Code 36-7-4-918.5 (b).
 - 2. The petition shall be approved with modifications if the BZA determines that the required finding of fact may be made if certain conditions are applied to the petition. The BZA may make reasonable conditions related to the required findings of fact part of its approval or accept written commitments from the petitioner.
 - 3. The petition shall be denied if findings of fact consistent with the requirements of this Ordinance and Indiana State Code are not made. Petitions which are denied shall not be eligible for consideration again by the BZA for a period of 1 year from the date of denial.
 - 4. The petition may be tabled when necessary if consistent with the Rules and Procedures of the Board of Zoning Appeals.

5. Applicants and/or interested parties are encouraged to tender proposed findings of facts for the establishing compliance or non-compliance of the Ordinance

Section 15.11 Special Exception (Use Variance)

The following procedure shall apply to all special exception petitions. The following procedure for a variance of use (Special Exception) shall follow the requirements set forth Indiana Code 36-7-4-918.4. *(Amended 1)*

- A. The petitioner shall submit a special exception application, affidavit and consent of property owner if the owner is someone other than the petitioner, a deed for the property involved, the required filing fee, and supportive information. Supportive information shall include, but not be limited to the following.
 1. A site plan drawn to scale, signed, and dated which clearly shows the entire layout of the property and all features relevant to the variance request.
 2. The applicant shall describe the details of the special exception use being requested and state how the request is consistent with the required findings of fact described in this Ordinance. The applicant should include any written commitments being made by the petitioner.
 3. For proposals using septic systems, a letter from the Floyd County Health Department shall be provided verifying that any proposed development makes appropriate use of the septic system.
 4. For proposals using sanitary sewer systems, a letter from the service provider shall be included verifying that any proposed new development will be served and the service provider must provide the following:
 - a. Present and to date average daily capacity figures
 - b. All required IDEM monitoring reports for last twelve months including any violations noted by IDEM
 - c. All proposed developments including estimated amounts of daily usage that the service provider has agreed to service.
 - d. Estimated daily use for proposed development
- B. Notification for the scheduled public hearing regarding the special exception use request shall be completed consistent with the Rules and Procedures of the Floyd County Board of Zoning Appeals and the Indiana Code
- C. The BZA may take action on the petition in accordance to IC 36-7-4-918.2(4)
 1. The petition shall be approved if the findings of fact are made consistent with the requirements of this Ordinance and Indiana State Code. Those requirements are stated below.

- a. The special exception will not be injurious to the public health, safety, moral, and general welfare of the community.
 - b. The use and value of the area adjacent to the property included in the special exception (variance of use) will not be affected in a substantially adverse manner.
 - c. The need for the special exception (variance of use) arises from some condition peculiar to the property involved.
 - d. The strict application of the terms of the Floyd County Zoning Ordinance would result in an unnecessary hardship in the use of the property.
 - e. The approval of the special exception use will not contradict the goals and objectives of the Floyd County Comprehensive Plan.
- 2. The petition shall be approved with modifications if the BZA determines that the required findings of fact may be made if certain conditions are applied to the petition. The BZA may make reasonable conditions related to the required findings of fact part of its approval or accept written commitments from the petitioner.
 - 3. The petition shall be denied if findings of fact consistent with the requirements of this Ordinance and Indiana State Code are not made. Petitions which are denied shall not be eligible for consideration again by the BZA for a period of 1 year from the date of denial.
 - 4. The petition may be tabled when necessary if consistent with the Rules and Procedures of the Board of Zoning Appeals.
 - 5. Applicants and/or interested parties are encouraged to tender proposed findings of facts for the establishing compliance or non-compliance of the Ordinance

Section 15.12 Zoning Map Amendments

The following procedure shall apply to all zoning map amendment (re-zoning) petitions:

- A. The following procedure for an amendment to zoning map shall follow the Indiana Code 36-7-4-600 series. Proposals for zoning map amendments may be initiated by either the Plan Commission, the County Commissioners, or through a petition signed by property owners of at least 50 percent of the land involved.
 - 1. Any property owners requesting a zoning map amendment shall be the petitioners and assume responsibility for preparing the application materials.
- B. The petitioner shall submit a re-zoning application, affidavit and consent of the property owners (if the owner is someone other than the petitioner), a deed for the property involved, the required filing fee, and required supportive information. Supportive information shall include, but not be limited to the following:
 - 1. A conceptual site plan drawn to scale showing all existing and any proposed structures, setbacks, easements, rights-of way, floodplains, and any other feature relevant to the petition.

2. A vicinity map showing the use and zoning of all properties within 1,000 feet of the property subject to the re-zoning request.
 3. A letter of intent to the Plan Commission stating the reasons for the Zoning Map Amendment, including a detailed description of any proposed development for which the re-zoning is sought. The letter should include any written commitments being made by the petitioner.
 4. A letter verifying that proper waste disposal will be available to the property.
 5. For proposals using septic systems, a letter from the Floyd County Health Department shall be provided verifying that any proposed development makes appropriate use of the septic system.
 6. For proposals using sanitary sewer systems, a letter from the service provider shall be included verifying that any proposed new development will be served and the service provider must provide the following:
 - a. Present and to date average daily capacity figures
 - b. All required IDEM monitoring reports for last twelve months including any violations noted by IDEM
 - c. All proposed developments including estimated amounts of daily usage that the service provider has agreed to service.
 - d. Estimated daily use for proposed development
- C. The application materials shall be reviewed by the Floyd County Plan Commission Office and Floyd County Planner's Office to determine the consistency with the provisions of the Ordinance.
1. The Plan Commission shall conduct a meeting with the petitioner and a representative from pertinent county department's to review the proposed petition.
 2. Either the petitioner(s) or a representative of the petitioner(s) shall be present during the review to answer questions regarding the petition.
 3. Any revisions to the application materials or the proposal requested through this review process shall either be addressed during the review meeting or through revised application materials submitted prior to the Plan Commission hearing. All revised submittals shall be submitted to the Planning Director in a timely manner as specified in the Plan Commission Rules and Procedures.
- D. Notification for the scheduled public hearing regarding the zoning map amendment request shall be completed consistent with the Rules and Procedures of the Floyd County Plan Commission and Indiana Code.
- E. The Plan Commission shall certify its recommendation by resolution to the County Commissioners. The Plan Commission staff shall forward to the County Commissioners appropriate copies of the Plan Commission resolution, the original application and all supportive information, any staff

reports regarding the petition, and a zoning map amendment for the County Commissioner's consideration.

- F. The County Commissioners shall hold a public meeting and vote on the proposed on the proposed zoning map amendment ordinance within 90 days of its certification by the Plan Commission.
 - 1. The County Commissioners shall provide notification of action on the zoning map amendments consistent with Indiana State code.
 - 2. The County Commissioners may either approve or deny the zoning map amendment. If the Commissioners fail to act within the 90 day timeframe specified above, the ordinance shall become effective or be defeated in accordance with the provisions of Indiana Code 36-7-4-608.
- G. In reviewing the re-zoning petition, the Plan Commission and County Commissioners shall pay reasonable regard to the following:
 - 1. The Floyd County Comprehensive Plan and any other applicable, adopted planning studies or reports.
 - 2. The current conditions and the character of current structures and uses in each district.
 - 3. The most desirable use of which the land in each district is adapted.
 - 4. The conservation of property values throughout Floyd County
 - 5. Responsible growth and development
- H. The petitioner in any re-zoning application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence of the subject property consistent with Indiana Code 36-7-4-615.
 - 1. Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made through the review process, or in response to any modifications requested by the Plan Commission during the public hearing.
 - 2. All commitments shall be considered by the Plan Commission in its review of the petition. Commitments shall be included as an element of the zoning map amendment prepared by the Plan Commission following action taken at the public hearing.
 - 3. The County Commissioners shall consider the written commitments in its review of the re-zoning application. Any deletions, addition, or alteration of the written commitments proposed by the County Commissioners shall be referred back to the Plan Commission for consideration and inclusion in a revised or affirmed recommendation regarding the application.
 - 4. Following final action being taken on the re-zoning application, the zoning map amendment, written commitments included, shall be recorded in the Office of the Floyd County Recorder.

5. Written commitments shall be considered part of the zoning map amendment binding the subject property.
6. The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property thereof.
7. The written commitments shall be enforceable by the Floyd County Plan Commission consistent with the adopted provisions for the enforcement of any aspects of the Ordinance.
8. The written commitments may be modified only through the Zoning Map Amendment process described by this section. Any written commitments shall be terminated if the Official Zoning Map applicable to the subject property is amended or it a zoning text amendment contradictory to the written commitments is adopted.

Section 15.13 Improvement Location Provisions and Standards

The following procedure applies to County Building Commissioner. The County Building Commissioner is hereby designated and authorized to issue Improvement Location Permits consistent with the terms of these articles.

- A. Any person, persons, firms or corporations which shall make application for an improvement location permit shall, at the time of making such application, furnish the building commissioner with a site plan of the real estate upon which said application for an improvement location permit is made at least 5 days prior to the issuance of said improvement location permit, by drawn to scale showing the following items:
 1. Legal description of the real estate involved.
 2. Location of size of all buildings and structures.
 3. All adjacent and adjoining roads or highways.
- B. The building commissioner shall review all applications for improvement location permits for the purpose of determining whether the proposed construction, other improvements, and development is located in or proposed for the flood plain district and whether said proposal shall be submitted to the Department of Natural Resources for review and/or permits. In the event that upon such review the building commissioner determines that the proposal is located within a floodway area of the flood plain, or in the event that the building commissioner determines that the proposal is not located within a floodway area of the flood plain, he shall require issuance of a permit by the Department of Natural Resources or forward the application to such department for its review, consideration and determination. At such time as the floodway area of the flood plain has been determined in its entirety for the unincorporated area of Floyd County, Indiana, by the Department of Natural Resources, except as otherwise specifically directed by the Floyd County Plan Commission.
- C. Any feature of a proposed development (including principal buildings and other structures, accessory buildings, landscaping, etc.) shall be designed and constructed so as to be reasonably safe from flooding. All construction, other improvements and developments shall be so constructed as to prevent flotation, collapse or lateral movement of the structure

- D. Prior to any alteration or relocation of a river water course in connection with a proposed development, notification shall be tendered to the Indiana Department of Natural Resources and a copy of such notification shall be submitted to the U.S. Department of Housing and Urban Development's Flood Insurance Administrator. The flood carrying capacity within any altered or relocated portion of a river water course shall be maintained.
- E. The Plan Commission shall keep and maintain all records, including all lowest floor elevation, certificates, plans, and other materials associated with any permit, or variance issued within the flood plain district.
 - 1. Legal description of the real estate involved
 - 2. Location and size of all buildings and structures.
 - 3. Width and length of all entrances and exits to and from said real estate
 - 4. All adjacent and adjoining roads or highways.
- F. Site plans so furnished to the Commissioner shall be filed by the Commissioner and shall become a permanent record.
- G. The Commissioner may require the relocation of any proposed building or structure or exit or entrance shown on said site plan and/or the location of new exits or entrances now shown on said site plan before issuing an Improvement Location Permit when such action is necessary to carry out the purpose and intent of this ordinance.
- H. The Commissioner shall issue an Improvement Location Permit for a Conditional use only following receipt of notice from the BZA that the application therefore has been approved by the BZA.
- I. No more than 2 Improvement Location Permits for the same piece of property may be issued and outstanding at any one time unless with written approval from Building Commissioner.
- J. No land shall be occupied or used and no building hereafter erected, reconstructed or structurally altered for any purpose whatsoever, until a Certificate of Occupancy shall have been issued by the Building Commissioner stating that the building and use comply with all of the provisions of this ordinance applicable, to the building or premises or the use in the district in which it is to be located.
- K. No change in use shall be made in any building or part thereof, now or hereafter erected, reconstructed or structurally altered, without a Certificate of Occupancy having been issued by the Building Commissioner, and such permit shall not be issued to make such change unless it is in conformity with the provisions of this ordinance.
- L. A Certificate of Occupancy shall be applied for simultaneously with the application for an Improvement Location Permit and shall be issued within 10 days after the lawful erection, reconstruction or structural alteration of such building shall have been completed and all pertinent conditions or ordinance standards have been met.
- M. A record of all Certificates of Occupancy shall be kept on file in the office of the Building Commissioner and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.
- N. No Improvement Location Permit shall be issued for excavation or for the erection, reconstruction or structural alteration, of any building, before application has been made for a Certificate of

Occupancy.

- O. Prior to the issuance of a building permit or Improvement Location Permit, the Building Commissioner in conjunction with the county engineer may make a determination as to whether the proposed building site presents a dangerous situation insofar as ingress and egress to said county road before said permit will issue. If said decision is that the proposed site presents a dangerous situation, then said application must be presented to the Floyd County Plan Commission to pass or reject said application.
- P. The building commissioner shall review all applications for improvement locations permit for new construction or additions to existing construction. If the proposed construction or addition is found to lie in a flood hazard area, the building commissioner may require such modifications to the design and materials as the building commissioner may deem appropriate to prevent flotation, collapse or lateral movement of the structure and minimize potential future flood damage. Any action undertaken by the building commissioner pursuant to the terms and provisions of this Paragraph shall be subject to the review of the Floyd County Board of Zoning Appeals upon appropriate request by the applicant for an improvement location permit.

Section 15.14 Board of Zoning Appeals

A Board of Zoning Appeals is hereby established with membership and appointment provided in accordance Indiana Code (need code reference)

- A. At the first meeting of each year, the BZA shall elect a President and a Vice-President from among its members, and it may appoint and fix the compensation of a secretary and such employees as are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensation theretofore fixed by the legislative authority.
- B. The BZA shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this ordinance.
- C. All meetings of the BZA shall be open to the public. The BZA shall keep minutes of its proceedings, keep records and other official actions. All minutes and records shall be filed in the office of the BZA and shall be a public record.
- D. Any decision of the County Building Commissioner and/or Planning Director in enforcement of this ordinance may be appealed to the BZA by any person claiming to be adversely affected by such decision in accordance with Indiana Code 36-7-4.918.1.
- E. The BZA shall have the following powers and it shall be its duty to:
 - 1. Hear and determine appeals from and review any order, requirement, decision or determination made by the Building Commissioner and/or Planning Director in the enforcement of this ordinance.
 - 2. Hear and decide on permits for conditional uses, special exceptions, variances or other uses upon which the BZA is required to act under this ordinance.
 - 3. Authorize upon appeal in specific cases such variances from the terms of this ordinance

shall be in accordance with the variance process set forth in this Ordinance.

4. Revoke any conditional use or special exception if such evidence is presented to the Board at a public meeting that condition(s) placed on the approval of the docket have not been met. Such revocation shall occur after the applicant has been notified by certified mail of the meeting date and has received notification through the violation process established in Section 15.05
- F. In exercising its powers, the BZA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the County Building Commissioner from whom the appeal is taken.
 - G. Every decision of the BZA shall be subject to review by certiorari.
 - H. The BZA shall not grant a variance in the application of the provisions of this ordinance relating to buildings, land or uses now existing or to be constructed until after a public hearing conforming to Indiana Code.

Section 16.01 Official Zoning Map

The Zoning Map for Floyd County is hereby included as part of this ordinance. The Zoning Map shall be formally known as the "Floyd County Zoning Map" and it may be cited as "Official Zoning Map" or "Zoning Map" or "Official Zoning Atlas".

Section 16.02 Official Zoning Map Copies

Copies of the Official Zoning Map may be made and distributed to interested parties. The Official Zoning Map copies shall be labeled as copies and have the date which they were last modified printed on them.

Section 16.03 Location of the Official Zoning Map

The location of the Official Zoning Map shall be located in the office of the Floyd County Plan Commission and the office of the Floyd County Planner.

Section 16.04 Zoning District Boundaries

The Zoning District boundaries shall be shown on the Official Zoning Map. The abbreviations and a color based scheme for the zoning districts appearing in this ordinance shall be used to identify the zoning districts on the map. Planned Unit Development shall be shown on the map by abbreviations as noted in this Ordinance and shall also be identified by the number and date of passage of the Ordinance approving the Planned Unit Development.

The Official Zoning Map should be formally revised annually, or as the Plan Commission determines necessary. During interim periods of time, hand drawn lines and text on the Official Zoning Map will be appropriate to note zoning changes. Copies may be made after the amendments are noted, and each copy shall be noted as an update with "date last changed" noted on the map. Other revisions may be made to correct drafting or other errors and omission in the prior map, but shall not have the effect of amending the Official Zoning Map except as adopted by the Plan Commission and County Commissioners.

Section 16.05 Damaged, Destroyed or Lost Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret due to the nature or number of changes, the County Commissioners may by resolution, adopt a new Official Zoning Map which shall to the extent possible, duplicate the accuracy of the damaged, destroyed or lost map.

Section 16.06 Official Zoning Map Standards

District boundaries on the Official Zoning Map shall be interpreted as follows:

- A. District boundaries shown within or parallel to the lines of roads, easements, and transportation right-of-ways shall be deemed to follow the center line of the affected road, easement, or right-of-way.
- B. District boundaries indicated as following the section or fractional section line, platted lot lines, or county or municipality corporation lines shall be construed as following such lines.
- C. District boundaries indicated as parallel to a section or fractional section line, platted lot lines, or municipality corporation lines shall be construed as parallel to the affected line.

- D. District boundaries indicated as approximately following the center line of streams, rivers, or other bodies of water shall be construed to follow such center line.
- E. Where a district boundary line divides a lot at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than 25 feet into the more restricted portion, provided the lot has frontage on the street in the less restricted district. Further, the exact location of where lines cross the property shall be determined by the Planning Director.
- F. The vacation of streets shall not affect the location of the district boundaries.
- G. When the Planning Director cannot definitely determine the location of a district boundary by the center lines, by scale or dimensions stated on the Official Zoning Map, because the boundary does not clearly coincide with a property line, the Director may refuse action and the Plan Commission may interpret the location of the district boundary with the references to the scale of the Official Zoning Map and the purposes set forth in all relevant provisions of this Ordinance.

Appendix A

Floyd County Land Use Matrix

P=Permitted

C= Conditional Use

Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Agricultural Uses												
Agriculture, Primary	P	P										
Agriculture, Home	P	P	P									
Agricultural, Service	P	P										
Commercial Greenhouse	P											
Commercial Kennel	C	C										
Confined Feed Operations	C											
Farm Stand	P	P	P									
Farmer's Market	C						C					
Mineral Extraction	C											
Residential Kennel	P	P										
Retail Nursery (Amended 1)	P						C	C	C			
Wholesale Nursery	P									P	P	
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Residential Uses												
Assisted Living Facility					C			C				
Bed and Breakfast/Tourist Home	C	C										
Boarding House	C											
Child-Care Facility (Owner Occupied)	P	P	P	P	P	P						
Child Care Institution					C			C				
Dwelling, Manufactured Home	P	P	P			P						
Dwelling, Mobile Home						C						
Dwelling, Multi-Family					P							
Dwelling, Single Family Attached				P	C							
Dwelling, Single Family Detached	P	P	P									
Dwelling, Townhouse				P	P							
Dwelling, Two-Family				P	P							
Residential Facility for the developmentally disabled (A)	C	C	C	C	C							
Residential Facility for the developmentally disabled (B)	P	P	P	P	P	P						

Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Commercial: Adult-Oriented Businesses												
Adult Cabaret									P		P	
Adult Media Store									P		P	
Adult Novelty Store									P		P	
Adult Motion Picture Theater									P		P	
Adult Theater									P		P	
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Commercial: Auto Sales and Services												
Automotive Repair and Services								C	P			
Automotive Sales and Services (New and Used)									P			
Automobile, Car Wash Automatic/Self								P	P			
Hotel/Motel Lodging								C	P			
Oil Change Facility								C	P			
Travel Center (Amended November 8, 2006)									C			
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Commercial: Food Sales/Services												
Bakery, Retail							C	P	P			
Convenience Store with Gas Pumps (Amended 1)							C	C	C			
Delicatessen							C	P	P			
Grocery								P	P			
Ice Cream Shop							C	P	P			
Restaurant, Drive-Thru							C	P	P			
Restaurant, Outdoor							C	C	C			
Restaurant, Full Service							C	P	P			
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Commercial: Personal Services												
Barber/Beauty Shop							P	P	P			
Child Care Center (Day Care)							P	P	C			
Dry Cleaners							P	P	P			
Health/Fitness Center							P	P	P	C		
Health/Spa Treatment (Non-Adult Business)							P	P	P			
Laundry Services						C	P	P				
Pharmacy							P	P	P			
Shoe Repair							P	P				

Tailor/Dressmaker/ Alterations Shop							P	P				
Tanning Salon							P	P	P			
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Commercial: Professional/Office Uses (amended 4)												
Accounting /Tax Services							P	P	P	P		
Advertising Services							P	P	P	P		
Ambulatory Care Facility								P	P			
Architectural/ Engineering Services							P	P	P	P		
Attorney/Legal Services							P	P	P	P		
Banks/Credit Unions							P	P	P	P		
Computer System Design and Services							P	P	P	P		
Dentist Office							P	P	P			
Employment Services								P	P	P		
Educational Support Services								P	P	P		
Health Care Practitioners Office							P	P	P			
Insurance Agency Office							P	P	P			
Investment Firms Office							P	P	P	P		
Photography Studio							P	P	P			
Physicians Office							P	P	P			
Professional Consulting Services Office							P	P	P	P		
Real Estate Office							P	P	P	P		
Service Organization Office							P	P	P	P		
Travel Agency							P	P	P			
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Commercial: Retail Small Scale Uses												
Antique Shop							P	P				
Apparel Shop							P	P				
Art and Craft Shop							P	P				
Consignment Shop							P	P				
Department Store							P	P				
Electronic and Home Appliance Store							P	P				
Fabric Store							P	P				
Floor Coverings							P	P				
Florist/Flower Shop							P	P				
Furniture Store							P	P				
Garden Shop							P	P				

Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Gift Store							P	P				
Grocery							C					
Hardware Store							P	P				
Hobby Store							P	P				
Jewelry Store							P	P				
Media Store (Non-Adult)							P	P	P			
Office Supplies Store							P	P				
Paint Store							P	P				
Pet Store							P	P				
Photography Studio							P	P				
Print/Mail Shop							P	P				
Shoe Store							P	P				
Sporting Goods Store							P	P				
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Commercial: Large Scale Uses												
Auction House								P				
Department Store								P				
Electronic and Home Appliance Store								P				
Fabric Store								P				
Floor Coverings								P				
Furniture Store								P				
Funeral Home or Mortuary								P	C			
Garden Shop								P	C			
Hardware Store								P				
Hobby Store								P				
Home Furnishing Store								P				
Jewelry Store								P				
Music Store								P				
Office Supplies Store								P				
Paint Store								P				
Pet Store								P				
Print/Mail Shop								P				
Shoe Store								P				
Sporting Goods Store								P				
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Commercial: Recreational Uses												
Banquet Hall (Amended 4)							C	P	P	C		
Bar/Tavern							C	C				
Billiard/Arcade Room (Amended 1)								C	C			
Bowling Alley (Amended 1)								C				
Dance/Aerobic/ Gymnastics Studio							C	P		C		
Golf Course/Driving	C	C										C

Range												
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Indoor Theater (Amended)								C	C			
Martial Arts Studio							C	P		C		
Miniature Golf								P				
Lodge or Private Club	C						C	P				
Skating Rink								P				
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Industrial: General Uses												
Boats, Motorcycles, Recreational Vehicles Sales and Services											P	
Bottled Gas Storage/Distribution											C	
Clay Building Material and Refractory Manufacturing											P	
Computer and Electronic Products										P	P	
Furniture and Related Products											P	
Junk Yard											C	
Medical and Diagnostic Laboratories										P	P	
Medical Equipment and Supplies										P	P	
Mini-Storage Facilities (Amended 4)									C	P	P	
Research –Business Incubator Center										C	P	
Sanitary Landfill (Private or Publicly Owned)											C	
Scientific Research and Development Services										C	C	
Specialty Trade Office/Workshop (Amended 4)	C	C								P	P	
Trade Shop (Amended 4)										P	P	
Warehousing and Storage (Amended 4)										P	P	
Wood Products Mfg.	C										P	
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Institutional- Public Uses												
Cemetery	C	C	C									
Church or House of Worship	C	C	C	C	C	C	C	C	C	C		
Government Office/ Building	C	C	C	C	C	C	C	C	C	C		

Hospital								C				
Library							C	C				
Museum								C				
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Police/Fire Station	C	C	C	C	C	C	C	C	C	C		
Post Office							C	C	C			
School, Public/Private	C	C	C	C	C		C	C				
School, University/College								C				
Trade or Business School							C	C				
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Recreational Uses												
Athletic Fields/Courts (<i>Amended 2</i>)	C	C	C	C	C	C	C	C	C	C	C	P
Campground (Public)												C
Community- Recreational Center												C
Community Swimming Facility												C
Shelter House												P
Trails, Walking/Biking	P	P	P	P	P	P	P	P	P	P	P	P
Land Use	AR	RR	RS	RU	MF	MH	NC	GC	HS	OB	GI	PR
Utilities:												
Public Well/Pumping Station	C	C	C	C	C	C	C	C	C	C	C	C
Sanitary Sewage Treatment Plant			C								C	
Telecommunication Facilities	C	C	C	C	C	C	C	C	C	C	C	C
Utility Substation	C	C	C	C	C	C	C	C	C	C	C	C

APPENDIX B – PARKING STANDARDS MATRIX

Examples:

An elementary school would use the appropriate employee parking standard + any specific land uses (gymnasium, theater, and school) to obtain a total. Convenient store with gas pumps would use the appropriate employee parking standard + 1 space per 200 Gross Floor Area + 2 spaces per gas pump to obtain a cumulative total.

Floyd County Land Use Parking Standards	
Use	Parking Standards
Employee Parking Standards	
Commercial Auto Sales and Services Uses	1 space per employee for largest shift
Commercial Food Sales and Services Uses	1 space per employee for largest shift
Commercial Personal Service Uses	1 space per employee for largest shift
Commercial Professional Office Uses	1 space per employee for largest shift
Commercial – Recreational Uses	1 space per employee for largest shift
Commercial Retail Small Scale Uses	1 space per employee for largest shift
General Industrial – Retail Outdoor Sales Uses	1 space per employee for largest shift
Institutional-Public-Utility- Communications Uses	1 space per employee for largest shift
Parking Standards for Appropriate Land Use	
Use	Parking Standards
Commercial Auto Sales and Services Uses	1 space per 225 Gross Floor Area
Commercial Food Sales and Services Uses	1 space per 225 Gross Floor Area
Commercial Personal Service Uses	1 space per 225 Gross Floor Area
Commercial Professional Office Uses	1 space per 225 Gross Floor Area
Commercial – Recreational Uses	1 space per 225 Gross Floor Area
Commercial Retail Small Scale Uses	1 space per 225 Gross Floor Area
General Industrial – Retail Outdoor Sales Uses	1 space per 250 Gross Floor Area
Institutional-Public-Utility- Communications Uses	1 space per 200 Gross Floor Area
Specific Land Use Parking Standards	
Use	Parking Standards
Assisted Living Facilities	1 space per 3 beds/dwelling units
Automotive Repair/ Body Shop	2 spaces per each service bay
Banquet-Reception Hall	12 spaces per 1,000 Gross Floor Area
Bar, tavern, saloon	5 space per 1,000 Gross Floor Area
Bed and Breakfast	1 space per each rented room
Billiard Hall/Arcade	3 spaces per billiard table/gaming device
Bowling Alley	3 spaces per lane
Child Care Facility	1 space per 4 children
Church or House of Worship	7 spaces per 1,000 Gross Floor Area
Commercial Kennel	1 space per 1,000 square feet of operations*
Commercial Greenhouse	1 space per 1,000 square feet of operations*

Convenient Store with Gas Pumps	1 space per 200 Gross Floor Area and 2 spaces per gas pump
Driving Range	2 space per Tee area
Fraternal, Social Organizations	1 space per 250 Gross Floor Area
Gas Station without Convenient Store	2 spaces per gas pump
Golf Course	11 spaces per hole
Governmental Facilities	3.5 spaces per 1000 Gross Floor Area
Health Care Facilities	2 spaces per Procedure/Operating Room
Health-Fitness Center, Gyms, etc.	1 space per 200 Gross Floor Area
Hospital	1 space per 4 beds
Hotel, Motel, Boarding House	1 space per each rented room
Library	1 space per 250 Gross Floor Area
Mini-Warehouse/Storage	1 space per 100 storage units
Museum	1 space per 250 Gross Floor Area
Multi-recreation center, Community Center, Recreational Center	8 spaces per 1,000 Gross Floor Area
Park	5 spaces per acre
Restaurants	15 spaces per 1000 Gross Floor Area
Schools (Private/Public K-12)	1 space per 4 students
Skating Rink	4.5 spaces per 1,000 Gross Floor Area
Swimming Pool	4.5 spaces per 1,000 Gross Floor Area
Theater Uses - Movie Theater, Auditorium, Live Theater Uses	3 spaces per theater seat
Trade/Technical School	1 space per 3 students
* Square footage used for the operation of use is calculated as either enclosed or open sections.	

APPENDIX C

LONG-TERM OPERATION AND MAINTENANCE AGREEMENT

File No.: _____ Parcel No.: _____

As accepted through SWQMP No.: _____

Project Name: _____

Primary function or description of activities to be executed at the site:

THIS AGREEMENT, made and entered into this a of this ____ day of _____, of the year ____, by and between _____ ("OWNER") and Floyd County, Indiana, acting by and through its duly authorized representative.

WITNESS, that

WHEREAS, Floyd County Ordinance 2005- _____ establishes requirements for storm water quality best management practices and a *Storm Water Quality Management Permit (SWQMP)* to manage the quality of storm water discharged from areas of urban development and redevelopment; and

WHEREAS, under said Ordinance Floyd County shall have the authority to inspect private systems within Floyd County and to order such corrective actions to said private storm water management systems as are necessary to maintain properly the storm water management systems within Floyd County; and

WHEREAS, under said Ordinance it is provided that storm water quality best management practices not owned municipally must be maintained by the property owner according to the terms of *Long-Term Operation and Maintenance Agreement* that must be implemented before a *SWQMP* is approved; and

WHEREAS, Floyd County has adopted and approved technical guidelines relating to storm water quality best management practices in Floyd County; and

WHEREAS, the OWNER is the legal title-holder of certain real property, commonly known as _____ and more particularly described by instrument recorded in the office of the Recorder of Floyd County, in Deed record/drawer ____, Page/instrument no. ____, or as instrument # ____ (hereinafter called the "Property"); and

WHEREAS, OWNER is proceeding to build on, develop, or redevelop the property; and

WHEREAS, the Stormwater Pollution Prevention Plan (SWPPP) and Long-Term Operation and Maintenance Plan, certified by _____, a licensed Professional Engineer, dated the ____ day of _____, 200__, is on file in Floyd County; is expressly made a part hereof; and as approved or to be approved by Floyd County, provides for storm water quality management within the confines of the property; and

WHEREAS, Floyd County and the OWNER agree that the health, safety, and general welfare of the residents of Floyd County require that on-site storm water quality best management practices be constructed, operated and maintained on the property; and

WHEREAS, Floyd County requires that onsite storm water facilities in accordance with the Storm water Pollution Prevention Plan (SWPPP) and Long-Term Operation and Maintenance Plan be adequately constructed and installed, operated and maintained by the OWNER; and

WHEREAS, an approved Storm water Pollution Prevention Plan and Long-Term Operation and Maintenance Plan will adequately illustrate the location type and extent of storm water quality best management practices, minimum inspection procedures and schedule, minimum operation procedures and schedule, and anticipated minimum maintenance activities including when and how to remove accumulated/collected/filtered/amassed/grown excess vegetation, sediment, debris, trash, pollutant and/or forms of pollution from the storm water quality best management practices.

NOW, THEREFORE,

In consideration of the foregoing premises, the mutual covenants contained herein, and the following terms and conditions, the parties agree as follows:

The onsite storm water quality best management practices shall be constructed by the OWNER in accordance with the SWPPP and Long-Term Operation and Maintenance Plan.

The OWNER shall operate and maintain the storm water quality best management practices as directed by the Long-Term Operation and Maintenance Plan in good working order acceptable to Floyd County.

The OWNER agrees that inspections will be performed by a *Qualified Professional*.

The OWNER agrees that inspections will be documented and include the following information:

A description of the current operational or functional status of the storm water quality BMPs. For structures that accumulate sediment, trash, debris other pollutant or form of pollution, an indication of used and remaining capacity (fraction, percentage, depth or volume) shall be given to identify when the BMP must be cleaned out.

D.

Identification of any necessary repairs, sediment/debris removal or replacement of all or portions of the storm water system(s).

The results of any field or laboratory analyses performed.

Other relevant or unusual observations related to the system(s).

Action plan to prevent premature storm water system failure as consistent with the Long-Term Operation and Maintenance Agreement(s) provisions.

Action plan to prevent the premature system failure that exceeds the Long-Term Operation and Maintenance Agreement(s) provisions, but are necessary to prevent storm water pollution from leaving the site.

5. The OWNER hereby grants permission to Floyd County, its authorized agents and employees, the right to enter the property to inspect the storm water quality best management practices whenever it deems necessary. Whenever possible, Floyd County shall notify the OWNER prior to entering the property.

6. In the event the OWNER fails to maintain storm water quality best management practices in accordance with the SWPPP and Long-Term Operation and Maintenance Plan in good working order acceptable to Floyd County, Floyd County may enter the property and take whatever steps it deems necessary to repair or maintain said storm water quality best management practices. This provision shall not be construed to allow Floyd County to erect any structure of a permanent nature on the land of the OWNER without first obtaining written approval of the OWNER. It is expressly understood and agreed that Floyd County is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on Floyd County.

7. In the event Floyd County, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the OWNER shall reimburse Floyd County upon demand, within ninety (90) days of receipt thereof, for all costs incurred by Floyd County hereunder. In the event the OWNER shall fail to reimburse Floyd County within said ninety (90) days, Floyd County may institute such legal measures as are deemed necessary to insure compliance with this agreement and to recover all sums expended hereunder, to include costs' and reasonable attorney fees.

8. It is the intent of this Agreement to guarantee the proper maintenance of onsite storm water quality best management practices by the OWNER; provided, however, that this Agreement shall not be deemed to create or affect any additional liability of the OWNER for damages alleged to have resulted from or been caused by storm water management practices.

9. The OWNER, its executors, administrators, assigns, and any other successors in interest, shall indemnify and hold Floyd County and its agents and employees harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against Floyd County from the construction, presence, existence, operation or maintenance of the storm water quality best management practices by the OWNER or Floyd County.

10. In the event a claim is asserted against Floyd County, its agents, or employees for the construction, presence, existence, operation or maintenance of the storm water quality best management practices by the OWNER, Floyd County shall notify the OWNER and the OWNER shall defend at its own expense any suit based on such claim. If any judgment or claims against Floyd County, its agents, or employees shall be allowed, the OWNER shall pay all costs and expenses in connection therewith.

11. This Agreement as attached by the SWPPP and Long-Term Operation and Maintenance Plan shall be recorded among the land records of Floyd County, and shall constitute a covenant running with the land, and shall be binding on the OWNER, its administrators, executors, assigns, heirs, and any other successors in interest.

WITNESS the following signatures and seals:

Floyd County, Indiana

OWNER

By:
Stormwater Program Superintendent

_____(ACKNOWLEDGMENTS)_____

Prepared By:

Appendix D Fee Schedule

Petitions	Fee
Administrative Appeal	\$100.00
Conditional Use (All except those listed below:)	\$300.00
Conditional Use Confined Feed Operation	\$750.00
Conditional Use Home Occupation	\$ 25.00
Conditional Use Junk Yard	\$750.00
Conditional Use Sanitary Land Fill	\$750.00
Conditional Use Sanitary Sewer Treatment Plant	\$750.00
Development Plan	\$100.00
Planned Unit Development (Conceptual Plan)	\$100.00
Planned Unit Development (Detailed Development Plan)	\$500.00
Sign Permit	\$ 25.00
Temporary Sign Permit	\$ 25.00
Temporary Use Permit	\$ 25.00
Variance (Development Standards)	\$300.00
Variance (Use Standards)	\$500.00
Zoning Map Change (Re-Zoning)	\$500.00

Residential	
Single Family or Two Family Dwelling (excluding garage, attic areas, etc.)	\$200 Base Fee plus \$.10 per square foot of floor area
Multi-Family Dwelling	\$300 per unit
Accessory Structures Detached Garage	\$40 minimum or \$.10 per square foot of floor area
Accessory Structures Attached Garage	\$100 minimum or \$.10 per square foot of floor area
Additions	\$55 Base Fee plus \$.10 per square foot of floor area
Interior Remodel	\$40 Base Fee plus \$.10 per square foot of floor area
Swimming Pool	\$175
Temporary Mobile Home	\$155 first two years \$300 per year after first two years
Commercial and Industrial	
Commercial and Industrial Structures	\$350 Base Fee plus \$.10 per square foot of floor area
Interior Remodel	\$75 Base Fee plus \$.10 per square foot of floor area
Accessory Structures and Additions	\$100 Minimum plus \$.10 per square foot of floor area
Other Structures Fees and Fines	
Change in Electrical Service	\$40
Parking Structure	\$10 per parking space
Re-Inspection	\$50 Residential \$120 Commercial/Industrial
Early Bird Fine (Start of Construction prior to permit issuance)	Twice the amount of permit
Variance Fine (Variance required because construction did not occur as per approved site plan)	Five times the cost of the permit plus the cost of the variance
Zoning Code Violations	\$50 per day per violation